

GAHC010011872024



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : AB/170/2024

HIREN DEKA AND ANR
S/O LATE NANDI RAM DEKA
R/O KETEKI PATH, GOTA NAGAR, P.S. JALUKBARI, DIST. KAMRUP (M)
ASSAM

2: BHABAJYOTI DEKA @ BHABA DEKA
S/O LATE BIPIN DEKA
R/O GOTA NAGAR
P.S. JALUKBARI
DIST. KAMRUP (M)
ASSA

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR K UDDIN
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

19.02.2024

Heard Mr. B. K. Mahajan, learned counsel appearing for the petitioners.
Also heard Mr. D. Das, learned Addl. Public Prosecutor, Assam appearing for the
State respondent.

This petition under Section 438 Cr.P.C., is filed for granting the privilege of pre-arrest bail to the petitioners, namely, **Hiren Deka and Bhabajyoti Deka @ Bhaba Deka** apprehending their arrest in connection with **Jalukbari P.S. Case No. 10/2024 (GR No. 124/24)** registered u/s **447/436/34/427/379/201** of the IPC.

The Case diary, as called for, is placed before the Court.

It is submitted by the learned counsel for the petitioners that the petitioners are innocent and no way involved with the alleged offence. The petitioner No.1 is a journalist by profession and as per the minutes of the advisory committee, some reputed journalist were allotted some land. As per Annexure-3 in issue No. 312 of the said minutes the accused petitioner, Mr. Hiren Deka was allotted the land of dag No. 835 of village-Gotanagar under Jalukbari mouza. However, the land was still lying vacant for observation of some formalities and verifications. More so, from the FIR it is seen that the present informant also do not have any right title and interest over the land however claiming her possession over the said land, she brought the allegation against the present petitioner. The petitioner is ready to co-operate with the IO for further investigation of the case.

Mr. D. Das, learned Public Prosecutor has submitted that the IO has collected some photographs where from it is seen that there were some temporary constructions over the land but from the photographs it cannot be said as to whether there is any dwelling house burnt or not. It is further submitted by Mr. Das that from the evidence of the witness collected from the IO it is seen that the disputed land is a Government land and both the parties are claiming their possession over the same disputed land. Accordingly, he submitted that custodial interrogation of the petitioner may not be required.

Considering the submission made by the learned counsel for both the sides and other aspects of the matter including the fact that the land is a government land, I find that custodial interrogation of the present accused petitioners may not be required for the interest of investigation.

Accordingly, it is provided that in the event of arrest, the petitioner, named above, shall be released on pre-arrest bail, in connection with the above noted case on furnishing bail bond of **Rs. 20,000/-each** with one local surety of like amount to the satisfaction of the arresting authority, subject, of course, to the following conditions:

- (i) That the petitioners shall appear before the Investigating Officer within 7 days; failing which on and from the 8th day, the pre-arrest bail order shall automatically come to end;
- (ii) That the petitioners shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Police Officer or the Court; and
- (iii) That the petitioners shall refrain from committing any similar offence in future of which he is accused or suspected of commission.

Return the case diary.

This disposes off the anticipatory bail application.

JUDGE

Comparing Assistant