

GAHC010031772023



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

Case No. : AB/469/2023

JINTU GOGOI AND ANR.
S/O SRI KOILASH CH. GOGOI
R/O JHANJI LEPHERAGAON
(NEAR JHANJJI LEPHERA L.P. SCHOOL), P.O.JHANJJI
MOUZA- MORA BAZAR
P.S GAURISAGAR,
DIST. SIVASAGAR, ASSAM

2: SRI LAKSHI SAIKIA
S/O LATE NOBIN SAIKIA
R/O JHANJI BORUAH GAON
P.O. MORA BAZAR
P.S. GAURISAGAR

DIST. SIVASAGAR
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A BHATTACHARYYA

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI**

ORDER

Date : 15.03.2024

Heard Mr. A. Bhattacharyya, learned counsel for the petitioners. Also heard Mr. B.B. Gogoi, learned Additional Public Prosecutor for the State of Assam.

This is an application made under **Section 438 Cr.P.C.**, seeking pre-arrest bail by the petitioner, namely, **Jintu Gogoi and Lakhshi Saikia**, apprehending arrest in connection with **Teok P.S. Case No. 237/2022(corresponding to GR No. 1299/2022)** registered under Section 379 IPC r/w Section 23 of Petroleum Act, 1934 and r/w Section 3 of PDPP Act.

The investigating officer, Shri Ganga Phukan is personally appeared and submits that he did not receive any notice regarding production of case diary in connection with this case.

Mr. Bhattacharyya, learned counsel for the petitioners submits that the petitioners have appeared before the Investigating Police Officer on several times as per direction of this Court and their statements have already been recorded after they were granted interim protection. They have not misused the liberty granted to them; rather, they co-operate with the investigation of the case, as when called for. Therefore, the privilege of pre-arrest bail granted to the petitioners may be made absolute.

Mr. Gogoi, learned Additional Public Prosecutor for the State submits that on several times, notice was issued to the investigating officer to produce the case diary. Today, the investigating officer appeared and

produced the case diary. It appears from the case diary that the statements of the petitioners were recorded only on 01.03.2024 i.e. on receipt of the notice from the Public Prosecutor for personal appearance. However, the interim protection was granted to the petitioners on 22.02.2023. As the statements of petitioners have already been recorded by the investigating officer and as such, their custodial interrogation may not be required.

I have considered the submission made by the learned counsel for the parties and also perused the case diary.

It appears that the petitioners have not misused the liberty granted to them while availing interim protection. It is directed to the petitioners to appear before the investigating officer as and when called for.

Considering all, this Court is of the view that the petitioners deserve to be granted the privilege of pre-arrest bail.

Accordingly, the interim protection granted to the petitioners vide order dated 22.02.2023, is made absolute on the same terms and conditions, as reflected.

As the investigating officer has appeared personally before this Court, his personal appearance is dispensed with.

The bail petition stands disposed of accordingly.

Return the case diary.

JUDGE

Comparing Assistant