

GAHC010035742024



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

Case No. : AB/441/2024

PRASENJIT DAS AND 3 ORS.
S/O LATE PRADYUMNA DAS
R/O VILL- RADHA NAGAR,
P.O. JOGIJAN, P.S.HOJAI
DIST. HOJAI, ASSAM

2: SRI KANAI HALUWA
S/O LATE AGHON HALUWA
R/O VILL- BORHULA
P.O JOGIJAN
P.S. HOJAI
DIST. HOJAI
ASSAM

3: SRI BIJAY BHOUMIK
S/O SRI MAINA BHOUMIK
R/O AMLIPUKHURI RESERVE
P.O. JOGIJAN
P.S. HOJAI

DIST. HOJAI
ASSAM

4: SRI BIJAY YADAV @ BIJAY KUMAR YADAV

S/O SRI JAGAT NARAYAN YADAV
R/O NATUN BAZAR

HOJAI
P.O. AN DP.S. HOJAI
DIST. HOJAI
ASSA

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. M K NEOG

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN**

ORDER

Date : 01-03-2024

Heard Mr. S. K. Singha, learned counsel for the applicant and Mr. P.S. Laskar, learned Additional Public Prosecutor for the State respondent.

Apprehending arrest in connection with Hojai P.S. Case No. 41/2024, under Sections 420/368/34 of IPC (GR No. 161/2024), this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicants namely, 1. Sri Prasenjit Das, 2. Sri Kanai Haluwa, 3. Sri Bijay Bhoumik and 4. Sri Bijay Yadav @ Bijay Kumar Yadav, for grant of pre-arrest bail.

The said case has been registered on the basis of an F.I.R., lodged by one Santosh Kisko, on 9.2.2024.

The essence of allegations made in the FIR dtd. 9.2.2024, is that on 10.11.2023, at about 10 PM at night, one Prasenjit Das, Kanai Haluwa, Bijay Bhoumik and Bijay Yadav @ Bijay have kidnapped the informant Santosh Kisku alongwith his wife-Malati Tudu, his son-Lohit Kisku and his daughter-in-law-Devarani Soren and his grandson-Basudev Kisku, and kept them confined in the house of Prasenjit Das and obtained his signature in a blank paper by showing one pistol for executing a power of attorney in the name of Kanai Haluwa, and later on, they have released the other family

members keeping him confined in the house of Kanhai Haluwa for about 1 month 26 days and during that period they obtained his signature in blank pages. Then on 5.1.2024, he was recovered from the custody of the accused persons.

Mr. Singha learned counsel for the applicants submits that all the applicants, except Kanai Haluwa received notice and they have appeared before the I.O. and the I.O. has recorded their statement and released them and on telephonic instruction, applicant No.2, Kanai Haluwa also appeared before the I.O. and his statement is also recorded and released by the I.O. and that they are ready to cooperate with the investigating agency and therefore, it is contended to allow this petition.

On the other hand, Mr. Lahkar, learned Addl. P.P. has produced the case diary before this Court and submits that the informant has not been supported the allegation made in the FIR.

Having heard the submission of learned Advocates of both sides, I have gone through the petition and the documents placed on record and perused the case diary with the assistance of Mr. Lahkar, learned Addl. P.P.

In view of the materials collected so far in the case diary, also in view of the cooperation being extended to the investigating agency, pursuant to the notice received by them u/s 41-A, their custodial interrogation seems to be not warranted herein this case and therefore, this Court is inclined to allow this petition. Accordingly, it is provided that in the event of arrest of the applicant, in connection with Hojai P.S. Case No. 41/2024, under Sections 420/368/34 of IPC (GR No. 161/2024), they shall be released on pre arrest bail, on their executing a bond of Rs.50,000/- each with one surety of like amount to the satisfaction of the arresting authority.

The above privilege is, however, subject to the following conditions:

1. That the applicants shall appear before the I.O as and when required.
2. That the applicants 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 Court or to any police officer; and

3. That the applicants shall not leave the jurisdiction of the learned Chief Judicial Magistrate, Hojai without prior permission.

In terms of above, this A.B stands disposed of.

JUDGE

Comparing Assistant