

GAHC010036092024



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

Case No. : AB/448/2024

RAJESH KUMAR AGARWALLA
S/O LATE MAHABIR PRASAD AGARWALLA
R/O RADIA BABU LANE, WARD NO. 6, UNDER JORHAT POLICE STATION,
DIST. JORHAT, ASSAM

2: NEELAM AGARWALLA
W/O LATE RAJESH KUMAR AGARWALLA
R/O RADHIA BABU LANE

WARD NO. 6
UNDER JORHAT POLICE STATION

DIST. JORHAT
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A M BORA

Advocate for the Respondent : PP, ASSAM

BEFORE

HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

15.03.2024

Heard Mr. A.M. Bora, learned Senior Counsel, assisted by Mr. D.K. Baidya, learned counsel for the petitioners. Also heard Mr. D. Das, learned Additional Public Prosecutor, for the State respondent.

This is an application under Section 438 of the Code of Criminal Procedure, 1973 for granting pre-arrest bail to the accused petitioners, namely, i.e. 1. Rajesh Kumar Agarwalla and 2. Neelam Agarwalla, who are appending arrest, in connection with Jorhat P.S. Case No. 40/2024, registered under Section 120 (B)/386/420 of the IPC.

The case of the prosecution is that on 06.02.2024, an FIR was lodged against the petitioner Nos. 1 and 2, alleging *inter-alia* that on 24.01.2024, the informant's son, who had travelled to Guwahati went missing.

It is further alleged that a letter was recovered which indicates that the informant's son has committed suicide.

It is further alleged that the petitioners, who had given a loan of Rs. 20 lakhs to the informant's son started harassing and traumatizing her son for non-payment of the said loan. Accordingly, a case was registered.

Mr. A.M. Bora, learned Senior Counsel, submits that the boy has already been recovered.

It is pertinent to mention that by order dated 22.02.2024, this court granted interim pre-arrest bail to the petitioner, subject to conditions.

The case diary called for is placed before this court.

Mr. D. Das, learned Additional Public Prosecutor, for the State respondent

that the petitioners have already appeared before the Investigating Officer in terms of the interim pre-arrest order dated 22.02.2024.

He further submits that the petitioners are co-operating in the investigation and their statements have been recorded by the Investigating Officer under Section 161 Cr.P.C.

As such, this court is of the considered view that custodial interrogation of the petitioner may not be justified for the ongoing investigation.

Accordingly, the interim pre-arrest bail, granted by order dated 22.02.2024, is hereby made absolute, subject to the following conditions:-

- (i) the petitioner shall appear before the Investigating Officer within 7 days;
- (ii) the petitioner shall not directly or indirectly make any inducement, threat or promise to the informant or to any other persons who may be acquainted with the facts of the case so as to dissuade such person from deposing against the petitioner in the pending trial against them; and
- (iii) the petitioner shall refrain from committing any offence similar to that with which he has been accused of in the instant case.

With the above observation, this anticipatory bail application is hereby disposed of.

JUDGE

Comparing Assistant