

GAHC010046812024



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

Case No. : AB/560/2024

SRI NABAJYOTI DAS AND ANR
S/O LATE JATIN DAS
RESIDENT OF KHARGHULI JOYPUR,, NEAR DON BOSCO INSTITUTION, PS
LATASIL, DIST KAMRUP M ASSAM

2: SRI GHANASHYAM DAS
S/O LATE JATIN DAS
RESIDENT OF KHARGHULI JOYPUR
NEAR DON BOSCO INSTITUTION
PS LATASIL, DIST KAMRUP M ASSA

VERSUS

THE STATE OF ASSAM ,REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. C K NATH
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 12-03-2024

Heard Mr. S. Munir, learned counsel for the applicant and also heard Mr. R. J. Barua, learned Addl. P.P. for the State respondent.

Apprehending arrest in connection with Panbazar P.S. Case No. 08/2024, under Sections 406/420/468/471 IPC, this application under Section 438 Cr. P. C. is

preferred by applicants, namely, 1. Sri Nabajyoti Das and 2. Sri Ghanashyam Das for grant of pre-arrest bail.

The above noted case has been registered on the basis of an FIR lodged by one Smt. Subhashree Das on 29.12.2023.

The essence of allegation made in the FIR dated 29.12.2023, is that her father late Jatin Das was the owner of a plot of land measuring 2 katha 9.97 lechas covered by dag No. 152 in K.P. Patta No. 352 of village Ramsahil Grant, under Ulubari Mouza and after the death of her father, she came to know that her brother Arup jyoti Das's name was mutated in the jamabandi without her and her sister's knowledge. Thereafter, she filed one RTI petition asking the details about the same and after receiving the RTI reply, dated 29.7.2023, alongwith affidavit dated 21.5.2022, she came to know that her brothers namely, Sri Nabajyoti Das, Sri Ghanashyam Das and Arup Jyoti Das have jointly forged her signature alongwith the signature of her sister namely, Pranita Das and Jonali Das in the affidavit dated 21.5.2022 and notarized the same before one Notary and produced the same before the Circle Officer for getting the mutation done in the name of Sri Arup Jyoti Das.

Mr. Munir learned counsel for the applicants submits that the present applicants are innocent and no way involved with the offence alleged in the FIR and that in fact, their brother, Arup Jyoti Das got the land mutated in his own name and that they are ready to cooperate with the investigating agency and therefore, Mr. Munir contended to allow the petition.

Whereas, Mr. R. J. Barua learned Addl. P.P. has produced the case diary before this Court and submits that the materials collected so far in the case diary are inadequate to show complicity of the present applicants with the offence alleged in the FIR.

Having heard the submission of learned Advocates of both sides, I have carefully perused the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Barua, learned Addl. P.P. In view of the materials collected so far in the case diary and also in view of the nature and gravity of the offence as well as the submission of the learned Advocates of both sides, custodial interrogation of the present applicants seems to be not warranted herein this case and therefore, this Court is inclined to allow this petition. It is provided that in the event of arrest of the applicants, in connection with Panbazar P.S. Case No. 08/2024, under Sections 406/420/468/471 IPC, 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 make themselves available for interrogation by the Investigating Officer 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
3. That the applicants shall not leave the jurisdiction of the learned CJM, Kamrup (M) without prior permission.

JUDGE

Comparing Assistant