

GAHC010063292024



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

Case No. : AB/795/2024

BISHNU RAY AND ANR.
S/O TARAPADA RAY, R/O VILL AND P.O.- NO. 1 NOWAPARA, P.S.-
MANIKPUR, DIST- BONGAIGAON, ASSAM

2: SMT. ADORI RAY
W/O TARAPADA RAY
R/O VILL AND P.O.- NO. 1 NOWAPARA
P.S.-MANIKPUR
DIST- BONGAIGAON
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR A DASGUPTA

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

10.04.2024

Heard Mr. A. Dasgupta, learned counsel for the petitioners. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor for the State respondent.

This is an application filed under Section 438 of the Code of Criminal Procedure, 1973, praying for grant of pre-arrest bail to the accused/petitioners, who are apprehending arrest in connection with Manikpur P.S. Case No. 36/2024 under Sections 376/511/352/313/34 of the Indian Penal Code.

Case Diary has been received and I have perused the same.

It is submitted by the learned counsel for the petitioners, Mr. Dasgupta that the false and concocted allegation has been brought against present petitioners. The actual fact of the case is that the petitioner No.1 and the husband of the informant are carpenter by profession. The informant's husband took Rs.3,000/- from the petitioner No.1 and when he asked the informant's husband to return the money, the informant lodged a false case against the petitioners. It is also stated that the accused/petitioner No.2 was granted with interim pre-arrest bail and after obtaining the same, she appeared before the IO and recorded her statement under Section 161 of Cr. P. C. He further submitted that the accused/petitioners are still ready and willing to co-operate with the I.O. in further investigation of the case, if they are allowed to remain pre-arrest bail.

On the other hand, Mr. Borthakur, learned Additional Public Prosecutor has submitted that the petitioner No.2 appeared before the IO, after obtaining the interim pre-arrest bail and further co-operated the IO in further investigation of the case. He also submits that considering the materials available in the Case Diary, further

custodial interrogation of the present accused/petitioners may not be necessary for the interest of the investigation.

Considering the submissions of learned counsels of both sides and also considering the nature of offence as well as the materials in the Case Diary, I find that custodial interrogations of the present accused/petitioners are not necessary in this case and therefore, I find it a fit case to extend the privilege of pre-arrest bail to the accused/petitioners. Accordingly, the interim pre-arrest bail order, granted to the accused/petitioner No.2, vide order dated 28.03.2024, is hereby made absolute with same terms and conditions. Further, the accused/petitioner No.1 is granted with the privilege of pre-arrest bail.

Accordingly, it is provided that in the event of arrest of the accused/petitioner, namely, Sri Bishnu Ray, in connection with Manikpur P.S. Case No. 36/2024 under Sections 376/ 511/ 352/ 313/34 of IPC, he shall be enlarged on pre-arrest bail on his executing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the arresting authority, subject to the following conditions:

- (i) that the petitioner No.1 shall make himself available for interrogation by the Investigating Officer within 7(seven) from today.
- (ii) that the petitioner No.1 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 him from disclosing such facts to the Court or to any police officer; and
- (iii) that the petitioner No.1 shall not leave the jurisdiction of the concerned jurisdictional Magistrate, without prior permission.

In terms of above, this anticipatory bail application stands disposed of.

The Case Diary be sent back.

JUDGE

Comparing Assistant