

GAHC010072682024



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

Case No. : AB/892/2024

PRAKASH AGARWALA
S/O BANSIDHARJI AGARWALA
RESIDENT OF HOUSE NO. 39
SETHIA HOUSE
FLAT NO. 301
3RD FLOOR
OPP. SENEKUCHI
OLD FIRE BRIGADE LANE
CHATRIBARI
GUWAHATI
ASSAM 781008

2: ISHAN AGARWALLA
S/O PRAKASH AGARWALA
RESIDENT OF HOUSE NO. 39
SETHIA HOUSE
FLAT NO. 301
3RD FLOOR
OPP. SENEKUCHI
OLD FIRE BRIGADE LANE
CHATRIBARI
GUWAHATI
ASSAM 781008
VERSUS

THE STATE OF ASSAM
REP BY PP ASSAM

Advocate for : MR. M KHAN
Advocate for : PP

ASSAM appearing for THE STATE OF ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

ORDER

10.06.2024

- 1.** Heard Mr. M. Khan, learned counsel for the petitioners. Also heard Mr. K.K. Das, learned Additional Public Prosecutor, appearing for the State of Assam as well as Ms. B. Goyal, learned counsel for the informant, who is assisting the learned Additional Public Prosecutor in this case.
- 2.** Learned counsel for the petitioners has submitted that by order dated 05.04.2024, the petitioners, namely, Prakash Agarwala and Ishan Agarwalla were allowed to go on interim bail in connection with Bhangagarh P.S. Case No. 31/2024 with certain conditions.
- 3.** It is submitted by the learned counsel for the petitioners that in pursuant to the aforesaid order, both the petitioners have appeared before the Investigating Officer of Bhangagarh P.S. Case No. 31/2024 and have co-operated in the investigation and therefore, he prays for making the interim bail order as absolute.
- 4.** On the other hand, Ms. B. Goyal, learned counsel for the informant, who is assisting the learned Additional Public Prosecutor in this case has submitted that the petitioners have collected the money amounting to Rs. 1,73,11,010/- (Rupees One Crore Seventy Three Lakhs Eleven Thousand and Ten only), which was disbursed in the name of Kameng Engineering by the Assam Govt. Marketing Corporation Ltd. through 4(four) numbers of cheques,

by opening a fake bank account No. 7197606492 at Indian Bank, G.S. Road Branch, Guwahati by using forged documents and in the account opening form, the name of one Madhujya Das(co-accused) was shown as the Proprietor of the firm Kameng Engineering.

5. The learned counsel for the informant has also submitted that the petitioner No. 1, Prakash Agarwala has put up people to pressurize the informant to withdraw the FIR by using various influences and threats and hence, learned counsel for the informant has prayed for cancelling the interim anticipatory bail granted to the petitioners and rejecting the instant anticipatory bail application.

6. I have perused the materials available on record, including the case diary of Bhangagarh P.S. Case No. 31/2024, which was called for in connection with this case. I have also considered the submissions made by the learned counsel for both the parties.

7. On perusal of the case diary of Bhangagarh P.S. Case No. 31/2024, it appears that both the above-named petitioners, in pursuant to the directions of this court have appeared before the Investigating Officer of Bhangagarh P.S. Case No. 31/2024 and their statements are also recorded under Section 161 of the Code of Criminal Procedure, 1973. It also appears that in pursuant to the directions of this Court, both the above named petitioners were allowed to go on interim bail, by the Arresting Authority on 05.04.2024. Though, the Investigating Officer has made an endorsement in the case diary that there are sufficient incriminating materials against both the above-named petitioners, however, it appears that both the petitioners have complied with the directions of this court and have co-operated in the investigation. Further, though, in the written objection filed by the informant, it has been alleged that the petitioner

No. 1 has put up people to pressurize the informant for withdrawal of the FIR, however, no specific details of such allegation has been stated in the written objection, neither any FIR has been lodged against the present petitioners for alleged attempt to influence and threaten the first informant. There are no concrete materials on record to suggest that after getting interim bail, the above-named petitioners have obstructed the investigation or caused any hindrance to the progress of investigation. There are also no materials on record to suggest that custodial interrogation of the present petitioners would be necessary for fair completion of the investigation of Bhangagarh P.S. Case No. 31/2024. Hence, this court is of considered opinion that if the petitioners continue to co-operate in the investigation, their custodial interrogation may not be necessary for fair completion of the investigation of Bhangagarh P.S. Case No. 31/2024.

8. For the aforesaid reasons, the interim bail granted to both the above-named petitioners, by order dated 05.04.2024, by this court is hereby made absolute with the condition Nos. (i) and (ii) attached to the said order remaining intact.

9. This anticipatory bail application is accordingly disposed of.

JUDGE

Comparing Assistant