

GAHC010071772024



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

Case No. : AB/923/2024

HEMANTA KR. GOGOI AND 2 ORS.
S/O SRI DIMBESWAR GOGOI, VILL- HALADHIBARI, BORPOTHER, P.O.-
KHOWANG, P.S.-KHOWANG, DIST- DIBRUGARH, ASSAM, PIN-785675

2: SMT. ANITA GOGOI PRADHAN
D/O SRI CHAL BAHADUR PRADHAN
VILL- KHASHAGONIZAN
P.S.-KHOWANG
DIST- DIBRUGARH
ASSAM
PIN-785675

3: MADHUSUDHAN DEKA
S/O NARAVAN DEKA
R/O INDIRA NAGAR
P.S.-BASISTHA
DIST- KAMRUP METRO
ASSAM
PIN-78102

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : J U AHMED, MR. M BISWAS, A SAIKIA, MR S A REEYAZ, MR. R K MUSHAHARY

Advocate for the Respondent : PP, ASSAM,

**BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND**

ORDER

23.09.2024

1. Heard learned counsel Mr. M. Biswas for the petitioners, namely (i) Hemnata Kr. Gogoi, (ii) Anita Gogoi Pradhan, and (iii) Madhusudhan Deka.
2. The petitioners have filed this application under Section 438 of the Cr.PC with prayer for pre-arrest bail as they are apprehending arrest in connection with BI(EO) P. S. Case No. 21/2022, registered under Sections 120(B)/420/406 of the IPC read with Sections 3/4/5 PC & MCS(B) Act, 1978 read with Section 5 of the APID Act, 2013.
3. Heard Mr. D. Das, learned Additional Public Prosecutor, Assam for the respondent State.
4. The FIR unfolds that an enquiry has been initiated at BI(EO), Assam on the basis of a complaint submitted by Sri Brightson Anthony of Numaligarh Tea Estate alleging interalia that the Managing Director, Shri Hemanta Kr. Gogoi of Pragjyotish Agrotech limited and his associates have escaped with more than Rs. 32 lacs in tow. The money was collected from various innocent villagers in the name of retail grocery outlet in villages and some other schemes of fishery, poultry, piggery, nursery, etc. During the enquiry, it was unearthed that, (i) Hemanta Kr. Gogoi, (ii) Bichitra Moran, (iii) Kamal Brahma, (iv) Anita Devi

Pradhan, (v) Satyajit Bora, (vi) Madhusudhan Deka, (vii) Chitala Saikia, and others have hatched up a conspiracy and started a company in the name and style of Pragjyotish Agrotech Limited and registered the same under the MCA on 05.08.2015 with CIN UO1403AS2015PLC012175. Thereafter, they appointed agencies in different villages throughout the State of Assam with a direction to solicit membership of the villagers with a joining fee of Rs. 1,340/- each, and in return the members would get logistic support for development of fishery, poultry, piggery, nursery etc. The petitioners and the accused named in the FIR had also initiated a scheme that, on payment of Rs. 25000/-, the Company would help them in establishing a grocery shop, and also supply fertilizers, seeds and other farming assistance to each member. A large number of gullible villagers were lured and duped into paying Rs. 1,340/- each in the name of logistic support and the villagers also paid Rs. 25,000/- for the benefits promised to them. The entire amount was collected and taken away by the petitioners and the other accused named in the FIR, and an amount of Rs. 1,40,00,000/- was misappropriated by the petitioners with false promises.

5. It is submitted on behalf of the petitioner that the Annexure-4 clearly reveals that the petitioner is a registered company under Sub-Section (2) of Section (7) of the Companies Act, 2013. Annexure-20(A) is the certificate of incorporation and the Annexure-3 is the memorandum of understanding

executed between the Assam Agricultural University, Jorhat and the petitioner's company which clearly reveals that the Assam Agricultural University has agreed to impart training on Animal Husbandry and the petitioner's company would send 2000 unemployed volunteers for Animal Husbandry. The MOU also reveals that the cost of one batch of training programme for 4 days duration would be 1,91,620/-. Annexure-4 is the memorandum of understanding between the North-East Small Finance Bank Limited and the petitioner's company, and the petitioner No. 1, Hemanta Kr. Gogoi had undertaken to adhere to provide technical know how to the farmers on piggery. Annexure-30 is the tripartite agreement between the petitioner's company, North-East Small Finance Bank Limited and the beneficiaries, and the Annexure-6 includes the list of beneficiaries. The Annexure-8 is the notice issued by Hemanta Kr. Gogoi for the financial year 2020-21, wherein 1.60 crore in the NPA status is due to be repaid by some beneficiaries after executing the Tripartite agreements. Through the notice, it was stated that the petitioner's company would review some internal aspects of each debtor and take measures to repay the remaining 50% on merit basis as per requirements.

6. The learned Additional Public Prosecutor has raised serious objection stating that Rs. 14,00,000/- was amassed by cheating by the petitioner's company. Poor villagers were cheated as Rs. 25000/- was collected from each person by the

petitioner's company who duped them to pay the amount with false promises of benefits.

It is submitted by the learned Additional Public Prosecutor that there are incriminating materials in the Case Diary against the petitioners.

7. I have scrutinized the Case Diary. Indeed there are incriminating materials in the Case Diary against the petitioners.

8. I have considered the role attributed to the petitioners. It appears that investigation may be adversely affected if the petitioners are insulated by an order of pre-arrest bail.

9. I have considered the staggering magnitude of the offence. At this juncture, there appears to be no justified ground to extend the privilege of anticipatory bail to the petitioners. Petition stands rejected at this stage.

10. Send back the Case Diary.

JUDGE

Comparing Assistant