

GAHC010124802024



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

Case No. : AB/1628/2024

SANKARACHARJYA BASUMATARY AND ANR.
S/O DEBICHARAN BASUMATARY, R/O VILL- DOLLONG BASTI,
CHARIDUAR, DIST- SONITPUR, ASSAM-784103

2: JUDHISTHIR KHAHLARI
S/O LATE PRAMANANDA CHANDRA KHAHLARI
R/O BHALUKPONG
LOWER BHALUKPONG
DIST-WEST KAMENG
ARUNACHAL PRADESH-79011

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. T BARUAH, MR J. ISLAM, MS A DAS

Advocate for the Respondent : PP, ASSAM,

BEFORE

HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

29.07.2024

Heard Mr A Das, learned counsel for the petitioners and Mr B B Gogoi, learned Additional Public Prosecutor for the State of Assam.

2. This application has been preferred under Section 438 of Code of Criminal

Procedure, 1973, by the petitioners, namely, (1) Sankaracharjya Basumatary, and (2) Judhisthir Khaklari who are apprehending their arrest in connection with Fatasil Ambari P. S. Case No. 177/2024 registered under Sections 448/419/420/427/468/471/ 380/34 of the Indian Penal Code.

3. The gist of the accusation in this case is that on 11.06.2024 one Veronica Wijunami had lodged an FIR before the Officer-in-Charge of Ambari Police Station, inter-alia, alleging that she had landed property at Hill View Road, Jyotikuchi in the name of her husband and they are presently residing at Dimapur.

4. It is also stated in the FIR that on 09.06.2024, the informant came to her house, she found that the same was illegally occupied by the accused persons who are named in the FIR and security guards were engaged in the said property. The security guards prevented the informant from entering into her property and told that the property belongs to one Harish Pareekh.

5. Later on, with the help of the police, the informant entered into the property and found that the door locks of the house were changed and in the second floor of the said house, the informant found one Paresh Dey and his wife, who introduced himself to be the manager of the Harish Pareekh and showed the informant certain property documents, which the informant alleges that it contains forged signature of her husband. In the FIR, it is also alleged that some of the article like fridge, laptop etc. were also stolen.

6. On receipt of the said FIR, Fatasil Ambari P. S. Case No. 177/2024 has been

registered.

7. Learned counsel for the petitioner has submitted that the petitioners had entered into an agreement to sale in respect of the said property with the first informant, namely Tony Dey and in this regard, a written agreement to sale was executed between the parties on 22.09.2023.

8. It is also submitted by the learned counsel for the petitioner that after executing the agreement to sale seller had handed over possession of the said property to the petitioner with a promise to execute the sale deed after obtaining necessary sale permission for the same.

9. Learned counsel for the petitioner has also submitted that later on the seller denied to obtain the sale permission and executed the sale deed and hence, the petitioner had approached the Civil Court by filing Title Suit No. 254/2024 which is presently pending in the Court of learned Civil Judge Senior Division No. 3, Kamrup (M).

10. Learned counsel for the petitioner has submitted that presently the said property is in occupation of the informant and her husband after they entered into the said property with police.

11. The learned counsel for the petitioner has submitted that the dispute between the parties are civil in nature and the petitioners are ready and willing to cooperate in the investigation.

12. I have considered the submissions at the Bar.

13. The learned Additional Public Prosecutor has submitted that the petitioners have

appeared before the IO and they have cooperated with the investigation.

14. I have also scrutinized the Case Diary.

15. The petitioners have not violated any bail conditions.

16. Investigation has progressed to a considerable extent.

17. It appears that custodial interrogation of the petitioners may not be required. The petitioners are local residents and are not flight risks. The petitioners have pledged to abide by any stringent bail conditions, if imposed upon them.

18. Considering all aspects and in view of my foregoing discussions, interim pre-arrest bail order dated 25.06.2024, is hereby made absolute, under the same terms and conditions.

19. Bail Application stands disposed of.

20. Send back the Case Diary.

JUDGE

Comparing Assistant