

GAHC010141232024



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

Case No. : Bail Appln./2051/2024

HIMANGSHU NARZARY AND 2 OTHRS
S/O- MUKUT NARZARY,
R/O- VILLAGE NIZ DEFELI,
P.S- TAMULPUR, DIST-TAMULPUR, ASSAM

2: DHRUBAJIT BORO ALIAS BHRUBAJYOTI BORO
S/O- KULEN BORO

R/O- VILLAGE- DWARKUCHI

P.S- TAMULPUR

DIST- TAMULPUR
ASSAM

3: PANKAJ BORO
S/O- SANEK BORO

R/O- VILLAGE NIZ DEFELI

P.S- TAMULPUR
DIST-TAMULPUR
ASSA

VERSUS

THE STATE OF ASSAM
REP BY THE PP ASSAM

Advocate for the Petitioner : NIMISH MAHAJAN

Advocate for the Respondent : PP, ASSAM

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

18.07.2024

Heard Mr. N. Mahajan, learned counsel for the petitioners. Also heard Mr. D. Das, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, praying for grant of bail to the accused/petitioners, who has been languishing in jail since 05.07.2024 in connection with Tamulpur P.S. Case No. 150/2024 registered under Sections 126(2)/296/308(2) /308(3)/3(5) of Bharatiya Nyaya Sanhita, 2023.

The learned counsel for the petitioner, Mr. Mahajan, submits that the accused/petitioners are innocent and they are students. He submits that on the day of the incident, they were intoxicated but did not commit the offense described in the FIR. According to the FIR itself, they only extorted Rs. 100 from the informant; and no incident of assault occurred. Furthermore, they have been in custody for the past 14 days, during which the investigating officer got ample opportunity to interrogate them. Mr. Mahajan, learned counsel for the petitioner, therefore prays for the release of the accused/petitioners on bail.

In this context, the learned Additional Public Prosecutor, Mr. Das, has submitted that although the case has been registered under Sections

126(2)/296/308(2)/308(3)/3(5) of the Bharatiya Nyaya Sanhita, 2023, but, there is no allegation of assault mentioned in the FIR. The only allegations against the petitioners are that, they have extorted Rs. 100 from the informant. Therefore, considering this aspect of the case, he raised no objection to the prayer made by the learned counsel for the petitioners.

Considering the submissions of learned counsel for both sides and also considering the length of detention already undergone by the accused/petitioner, i.e. 14 days, I am of the view that the I.O. has got ample opportunity to interrogate the accused/petitioner in the custody and accordingly, further custodial interrogation of the accused/petitioner seems to be not necessary here in this case.

Accordingly, it is provided that on furnishing a bond of Rs. 20,000/- (Rupees twenty thousand) only each with one surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Baksa, the accused/petitioners, namely, **1. Himangshu Narzary, 2. Dhrubajit Boro @ Dhrubajyoti Boro** and **3. Pankaj Boro**, be enlarged on bail, subject to the following conditions:

- (i) that the petitioners shall make themselves available for interrogation by the Investigating Officer as and when required;
- (ii) that the petitioners 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; and
- (iii) that the petitioners shall not leave the jurisdiction of the learned Chief Judicial Magistrate, Baksa, without prior permission.

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

JUDGE

Comparing Assistant