

GAHC010143572024



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

Case No. : AB/1858/2024

PRAGYA TIWARI AND ANR
W/O SRI PANKAJ TIWARI, R/O MANSAROVAR APARTMENT, 89/277, 278,
BANGUR PARK, 10TH LANE, RISHRA-712248, HOOGLY, WEST BENGAL

2: ARPIT TIWARI
S/O SRI MITHILESH TIWARI
R/O 89/114/4DN BANERJEE ROAD
RISHRA
HOOGLY-712249
WEST BENGAL

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. B GOGOI, MR M BHUYAN, MR A CHALIHA

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 16-08-2024

Heard Mr. D. Das, learned Senior Counsel assisted by Mr. B. Gogoi, learned counsel for the petitioners 1. Pragya Tiwari and 2. Arpit Tiwari, who have filed

this application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 with prayer for pre-arrest bail as they are apprehending arrest in connection with Halem Police Station Case No. 46/2024 under Sections 120(B)/171(E)/379/406/420/468/471 of the Indian Penal Code, 1860.

2. Heard Mr. R.R. Kaushik, learned Additional Public Prosecutor, Assam for the respondent State.

3. It is submitted on behalf of the petitioners that the main accused Pankaj Tiwari and Mithilesh Tiwari have already been arrested in connection with this case. The present petitioner No. 1 Smti. Pragya Tiwari is the wife of the prime accused Pankaj Tiwari.

4. The allegation is that the accused Pankaj Tiwari who was the General Manager of Nirmala Tea Estate had siphoned off huge amount of funds in a fraudulent manner and the funds were transferred into the bank account of Smti. Pragya Tiwari.

5. It is submitted that Pragya Tiwari was not at all aware in what manner the funds have been procured by her husband and thus, she was granted pre-arrest bail by this Court vide order dated 22.07.2024. Earlier Pankaj Tiwari was arrested in connection with Gingia Police Station Case No. 12/2024 for theft of selling tea through false bills and challans and during investigation certain documents were found from his quarter, which has thrown light to the fraudulent activities of Pankaj Tiwari and Arpit Tiwari. It is submitted that Arpit Tiwari is the nephew of Pankaj Tiwari and when the incident of fraudulent activities had been taking place he was not employed by the Manash Tea Estate or Nirmala Tea Estate. He was appointed on 29.12.2022 while the allegations are relating to incidents which have occurred prior to 24.08.2022.

6. On the contrary, learned Additional Public Prosecutor has raised objection stating that the petitioner No. 1 who was granted interim bail is not cooperating with the investigation. During investigation, it was unearthed that she was maintaining two bank accounts and she has funds of Rs.79.98 Lacs in one account and Rs.42 Lacs in another account but she has not cooperated with the investigation. It is also submitted by the learned Additional Public Prosecutor that more than Rs.5 Crore was amassed by the prime accused.

7. It has been submitted that the petitioner No. 2 Arpit Tiwari was appointed on 29.12.2022 and within a short span of time, he has amassed wealth of Rs.52 Lacs. It is submitted that investigation may be adversely affected if Arpit Tiwari is insulated by an order of pre-arrest bail.

8. I have considered the submissions at the bar with circumspection. I have also scrutinized the Case Diary. Indeed there are incriminating materials in the Case Diary against the petitioners. I have considered the fact that the petitioner No. 1 has appeared before the Investigating Officer. I have also considered the submission that the petitioner No. 1 is willing to cooperate with the remaining part of the investigation. I have also considered the submissions that the petitioner No. 1 at present is a housewife with a minor child to take care of. The prime accused are already behind bars.

9. Considering all aspects, in the event of her arrest, petitioner No. 1. Pragya Tiwari shall be enlarged on bail on furnishing a bail bond Rs.50,000/- (Rupees Fifty Thousand) with a local surety of like amount to the satisfaction of the arresting authority under the conditions that:

(i) The petitioner No. 1 shall appear before the Investigating Officer within 10 (Ten) days and cooperate with the investigation, failing which pre-arrest bail

order shall automatically stand cancelled.

10. The merits of this case are not brought to the fore as investigation is still under progress. At this juncture, I am not inclined to grant pre-arrest bail to the petitioner No. 2 Arpit Tiwari. Petition in respect of the petitioner No. 2 is rejected at this stage.

11. In terms of the above, this Anticipatory Bail application stands disposed of.

12. Send back the Case Diary.

JUDGE

Comparing Assistant