

GAHC010149322024



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

Case No. : AB/2031/2024

RANDIP GOGOI
S/O LATE KRISHNA KANTA GOGOI, R/O BORDOLOI NAGAR, TINSUKIA,
P.O.-TINSUKIA, P.S.-TINSUKIA, DIST- TINSUKIA, ASSAM, PIN-786156

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. P P GOGOI, N GOGOI, MR A SARANIA

Advocate for the Respondent : PP, ASSAM,

Linked Case : AB/2032/2024

PRALAY SARKAR
S/O LATE PARIMAL SARKAR
R/O KHARGESWAR ROAD NEW COLONY
TINSUKIA
P.O.-TINSUKIA
P.S.-TINSUKIA
DIST- TINSUKIA
ASSAM
PIN-786125

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR
ASSAM

Advocate for : MR. P P GOGOI
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

Linked Case : AB/2033/2024

PRANABJYOTI DEKA
S/O ALOK DEKA
R/O ULUBARI
SATYANARAYAN ENCLAVE
NEAR BORA SERVICE
GUWAHATI
P.O.-ULUBARI
P.S.-PALTAN BAZAR
DIST- KAMRUP (M)
ASSAM
PIN-781007

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR
ASSAM

Advocate for : MR. P P GOGOI
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

BEFORE

HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

14.08.2024

Heard Mr A Sarania, learned counsel for the petitioners, Sri Randip Gogoi, who has filed an application under Section 482 of the BNSS, 2023, which is registered as AB No. 2031/2024.

2. Heard Mr A Sarania, learned counsel for the petitioners, Sri Pralay Sarkar, who

has filed an application under Section 482 of the BNSS, 2023, which is registered as AB No. 2032/2024.

3. Heard Mr A Sarania, learned counsel for the petitioners, Sri Pranabjyoti Deka, who has filed an application under Section 482 of the BNSS, 2023, which is registered as AB No. 2033/2024.

4. All the petitioners named above have filed their applications under Section 482 of the BNSS, 2023, with prayer for pre-arrest bail apprehending their arrest in connection with Bhangagarh PS Case No. 82/2024, under Sections 448/384/34 of the Indian Penal Code, 1860.

5. Heard Mr P S Lahkar, learned Additional Public Prosecutor for the State of Assam.

6. The FIR unfolds that Sri Pralay Sarkar, who has posed as an informer of an outlawed organization, tried to extort money from the informant, Sri Gaurav Kashyap. Both had a business deal, but Pralay Sarkar started demanding Rs. 2 lacs and on refusal to pay the same, the accused Pralay Sarkar threatened Sri Gaurav Kashyap with dire consequences. Thereafter, Pralay Sarkar accompanied by the other accused armed with fire arms demanded Rs. 5 lacs from Gaurav Kashyap and compelled him to sign some documents and some cheques and also threatened him not to inform the Police about the signatures affixed on the documents and the

demand of money. The informant along with his son also escaped to Guwahati, but on 05.12.2013, at about 02:15 pm, Pralay Sarkar along with Randip Gogoi trespassed into the informant's house and demanded Rs. 30 lacs and tried to compel the informant to affix his signature on some blank cheques. When the informant refused to affix his signature, then they called another person, namely Pranab Jyoti Deka to his house and then they snatched away a HP Laptop worth Rs. 1,50,000/- from Anurag Kashyap and also looted an amount of Rs. 38,000/- from the almirah. When the informant and his family tried to resist, the petitioners, along with the other accused threatened them with dire consequences and the petitioners, along with the other accused also forcefully robbed one Royal Enfield Bullet Motor Cycle bearing Registration No. AS-01-FJ-5948 and a scooty bearing Registration No. AS-01-FG-5895 and on gunpoint, the petitioners and the other accused also forced the informant to affix his signature on a promisory note for an amount of Rs. 30 lacs. The accused Robin Gogoi also introduced himself to be a member of the militant group. All the accused, Sri Randip Gogoi, Sri Pralay Sarkar and Sri Pranabjyoti Deka, forcefully took away the informant's Pan Card, Voter Card, Aadhar Card, Registration Certificate of two vehicles and Voter Card of the deceased wife of the informant. They also threatened the informant with dire consequences, if the informant fails to affix his signature on blank cheques. At that time, cheques were not available with the informant and on 06.12.2023, the informant was forced to go along with the

aforementioned accused, including the petitioners to the SBI Branch at Sohum Emporium to apply for a new cheque book. On 21.12.2023, Pranabjyoti Deka, demanded an amount of Rs. 20,000/- from the informant, which was paid to him by the informant through his Google Pay Account. The informant was also apprised that the accused would come on or before Magh Bihu of 2024, to meet their demand of Rs. 30 lacs through payment or through cheques.

7. It is submitted on behalf of the petitioners that a principal amount of Rs. 22 lacs was to be paid by the informant to Pralay Sarkar and after repeated requests, the informant failed to return the money to Pralay Sarkar. On 05.12.2023, the other accused, namely Pranabjyoti Deka and Randip Gogoi accompanied Pralay Sarkar as witness to the residence of the complainant and after a cordial negotiation between both the parties, a promisory note and undertaking was drafted and signed by Pralay Sarkar. The complainant's son was also present. Through the undertaking the informant promised to pay an amount of Rs. 30 lacs, including additional loss and expenses incurred by the petitioners. A two-wheeler was also willingly handed over as mortgage until the informant would complete payment of the principal amount of Rs. 30 lacs and an interest of 18% per annum to be paid as compensation, on his failure to pay the principal amount.

8. It is submitted that as a deal was stuck between the petitioners and the informant, there was an agreement for payment, but the informant has failed to repay

the amount.

9. I have considered the submissions at the Bar with circumspection.

10. It is also submitted that the promisory note was submitted on 05.12.2023 and the FIR was lodged as late as on 09.01.2024. The delay leaves enough scope for fabrication.

11. I have also scrutinized the Case Diary.

12. The agreement executed between both the parties, relating to a business deal is in the Case Diary.

13. It appears that there are sufficient grounds to grant pre-arrest bail to the petitioners.

14. I have also considered the submission that the petitioners are willing to cooperate with the investigation.

15. It is also submitted on behalf of the petitioners that a false allegation has been brought up against them that they have threatened the informant by posing as informers of the banned organization.

16. Considering all aspects and in view of my foregoing discussions, petition is allowed. In the event of their arrest, the petitioners shall be enlarged on bail of Rs. 30,000/- each, with a suitable surety of the like amount to the satisfaction of the arresting authority, under the conditions that-

- i) the petitioners shall appear before the IO within one week and cooperate with the investigation.
- ii) the petitioners shall refrain from such activities with which they are alleged, and
- iii) the petitioners shall not leave the jurisdiction of the Court, without prior permission.

16.1. On breach of any of the bail conditions, this bail order shall automatically stand cancelled.

17. Anticipatory Bail Applications stand disposed of.

18. Send back the Case Diary.

JUDGE

Comparing Assistant