

GAHC010179712023



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

Case No. : AB/2833/2023

GOBINDA DAS AND 5 ORS.
S/O HARADHAN DAS R/O TETULTOLA COLONY HARLONGFAR P.O.
LAMDING DIST. HOJAI ASSAM PIN 782447

2: JOY KAR
S/O MATINDRA KAR R/O TETULTOLA COLONY HARLONGFAR P.O.
LAMDING DIST. HOJAI ASSAM PIN 782447

3: AJAY SAHA
S/O MOHAN LAL SAHA R/O KHANGAR GAON BASTE P.O. LAMDING DIST.
HOJAI ASSAM PIN 782447

4: SANJOY CHOKROBARTY
S/O SAPAN CHOKROBARTY R/O TETULTOLA COLONY HARLONGFAR P.O.
LAMDING DIST. HOJAI ASSAM PIN 782447

5: SANJAY DEY
S/O ATUL DEY WARD NO. 9 LANKA DIST. HOJAI ASSAM PIN 782447

6: AJAY BANIK
S/O LT SAPAN BANIK R/O SANTIPUR LUMDING DIST. HOJAI ASSAM PIN
78244

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR K BHUYAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN
ORDER

09.01.2024

Heard Mr. K. Bhuyan, learned counsel for the applicants and also heard Mr. R.J. Baruah, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. Apprehending arrest in connection with Lumding P.S. Case No.158/2023, under Section 379/411/34 IPC, this application under Section 438 Cr.P.C. is preferred by six applicants, namely, Gobinda Das, Joy Kar, Ajay Saha, Sanjoy Chokrobarty, Sanjay Dey and Ajay Banik, for grant of pre-arrest bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by S.I. Upendra Dev Sarma of Lumding P.S. on 05.08.2023. The essence of allegation made in the aforesaid FIR is that acting on a tip off he along with police staff proceeded to Harlangfar Railway line near Samajbari and found 26 bags of suspected Burmese Supari and also found 4 persons, who were working there as labourer for carrying the supari bags and they are namely, Rajesh Kumar, Sunil Kumar, Sujit Kumar and Rahul Kumar and they disclosed before him that Ajay Banik, Govinda, Joy, Master, Ajoy, Sanjay of Lanka, Mana Saha and Babu of Hojai are the owners of the aforesaid suspected Burmese Suparies.

4. Mr. Bhuyan, learned counsel for the applicants submits that the sections, under which the case has been registered, are not attracted in this case, as no one has lodged FIR regarding stealing of the seized Burmese Suparies and that the applicants are ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. Whereas, Mr. R.J. Baruah, learned Additional Public Prosecutor, Assam, submits that he has not received the case diary, but as per instruction, the I.O. has laid charge-sheet

after completion of investigation, being Charge-Sheet No.181/2023, dated 31.10.2023 under Section 379/411/34 IPC.

6. In view of the submission of learned Advocates of both sides, this Court is inclined to dispose of this anticipatory bail application by directing the applicants to appear before the learned Court below on or before 29.01.2024, and to apply for regular bail and in the event of filing such an application, the learned Court below shall consider the same in accordance with law.

7. Till then interim order dated 16.08.2023 stands extended.

Sd/- Robin Phukan
JUDGE

Comparing Assistant