

GAHC010184862024



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

Case No. : AB/2417/2024

MAHANTA BRAHMA AND 2 ORS
S/O-LATE KRISHNA BRAHMA,
R/O VILLAGE- DAODHARA,
P.O- KHAMARDWISA,
P.S- SIMLA, DIST- BAKSA, ASSAM, PIN-781330

2: MIJING BRAHMA
S/O-HANGA BRAHMA

R/O VILLAGE- BHALAGARI

P.O- KHAMARDWISA

P.S- SIMLA
DIST- BAKSA
ASSAM
PIN-781330

3: UGYEN TSHEWANG
A CITIZEN OF BHUTAN
BEARING CITIZENSHIP NO.10905002629

HOUSEHOLD NO-09050030

VERSUS

THE STATE OF ASSAM
REP BY THE PP ASSAM

Advocate for the Petitioner : MR. JAGANNATH HATIMURIA, MR. N M DAS,MR. M KALITA

Advocate for the Respondent : PP, ASSAM,

**BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI**

ORDER

Date : 23.09.2024

Heard Mr. M. Kalita, learned counsel for the petitioners. Also heard Mr. D.P. Goswami, learned Additional Public Prosecutor for the State.

2. By this petition filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the petitioners, namely, **Mahanta Brahma, Mijing Brahma and Ugyen Tshewang**, have prayed for granting pre-arrest bail, apprehending arrest in connection with Simla PS. Case 68/2024 under Section 53(1)(a)/54 of Assam Excise Act, 2000.

3. The learned counsel for the petitioners submits that the petitioners are falsely implicated in this case. It is also submitted that petitioner No. 1 has been already arrested for which BA/2882/2024 is filed. The petitioner No. 3 is a citizen of Bhutan and has a good relationship with petitioner Nos. 1 and 2. On the day of the incident, petitioner No. 3 brought the vehicle being number BP-3-A-1674, possessing the proper challan/permission from the Royal Government of Bhutan, to transport beer from Samdrup Jongkhar, Bhutan, to Peizomthang, Bhutan. On his way, petitioner No. 3 stopped his vehicle at the house of petitioner No. 2, but the police personnel searched the premises on mere suspicion and seized the vehicle with liquor. The petitioners are not involved in this case. Considering the background of the case, the pre-arrest bail may be extended to the petitioner Nos. 2 and 3.

4. On the other hand, Mr. Goswami, learned Additional Public Prosecutor has produced the case diary and submits that the petitioners are very much involved in the alleged offence and the petitioner No. 3 is a citizen of Bhutan. The investigation is still in progress. At this stage, he has objection in granting pre-arrest bail to the petitioners.

5. I have considered the submissions made by the learned counsel for the parties. I have perused the case diary.

6. It appears that the petitioner No. 3 is a citizen of Bhutan and as the investigating officer has failed to collect any further information regarding petitioner No. 3 as such, the privilege of pre-arrest bail to the petitioner No. 3 is rejected at this stage of investigation. Considering the materials available in the case diary as well as the nature of offence, this Court is inclined to grant the privilege of pre-arrest bail to the petitioner No. 2.

7. Accordingly, it is provided that in the event of arrest of the petitioner No. 2, Mijing Brahma, in connection with Simla PS. Case 68/2024 under Section 53(1)(a)/54 of Assam Excise Act, 2000, he shall be released on furnishing bail bond of **Rs.30,000/-** with **a suitable surety** of the like amount, to the satisfaction of the arresting authority.

The direction for pre-arrest bail is subject to the conditions that the petitioner No 2:

(a) shall appear before the Investigating Police Officer within ten days from today and shall co-operate with the investigation;

(b) 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 him from disclosing such facts to the Court or to any police officer;

8. The anticipatory bail application stands disposed of.
9. Send back the case diary.

JUDGE

Comparing Assistant