

GAHC010191762024



2024:GAU-AS:10075

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

Case No. : AB/2463/2024

ESMAIL MANDAL AND ANR
S/O FEDDUSH @ FEDDUSH
ALI MANADAL
VILL- BHABANIPUR
P.O. JOYPUR
P.S. AMGURI
DIST. CHIRANG, ASSAM
PIN- 783393

2: SAHA ALI
S/O MAJIBAR @ MOJIBAR ROHMAN
VILL- BHABANIPUR
P.O. JOYPUR
P.S. AMGURI
DIST. CHIRANG
ASSAM
PIN-78339

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. J ABBAS, MS. B LASKAR, I HOQUE

Advocate for the Respondent : PP, ASSAM,

**BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND**

ORDER

Date : 03-10-2024

Heard Mr. J. Abbas, learned counsel for the petitioner Nos. 1. Esmail Mandal and 2. Saha Ali, 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 Kajalgaon Police Station Case No. 77/2024 under Sections 303(2) and 3(5) of the Bharatiya Naya Sanhita, 2023

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

3. The allegation is that the petitioners were involved in dismantling a bridge and collecting the iron of the bridge.

4. The learned Additional Public Prosecutor, Assam has raised serious objection stating that the petitioners are not entitled to pre-arrest bail, as they have destroyed a public property.

5. It is submitted on behalf of the petitioners that they are labourers and they were working under the contractor who had ordered them to remove the iron joist from the wooden bridge.

6. I have scrutinized the Case Diary. There are incriminating materials that the petitioners have removed the iron joist from the wooden bridge. I have considered the submission that the petitioners are labourers working under the contractor. I have also considered the submission that the petitioners are willing to abide by any stringent bail conditions if imposed upon them. The petitioners are local residents and they are not flight risks.

7. Considering all aspects, petition is allowed. In the event of their arrests, the petitioner shall be enlarged on bail on furnishing a bail bond of Rs.30,000/- (Rupees Thirty Thousand) each with a suitable surety of like amount to the satisfaction of the arresting authority under the conditions that :

(i) the petitioners shall appear before the Investigating Officer within one week and cooperate with the investigation,

(ii) the petitioners shall refrain from such activities with which they are alleged,

(iii) the petitioners shall not leave the jurisdiction of the Court without prior permission.

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

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

JUDGE

Comparing Assistant