

GAHC010133382024



2024:GAU-AS:12530

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

Case No. : I.A.(Crl.)/915/2024

SMT. JHILIK GHOSH AND ANR
W/O SRI SUBRATA DEBNATH
DUTTAPUKUR
NETAJI NAGAR
NEBADHAI DUTTAPUKUR (CITY)
NORTH 24 PARGANA
WEST BENGAL
PIN-743248

2: SUBRATA DEBNATH
S/O LAT HARIDHAN DEBNATH
DUTTAPUKUR
NETAJI NAGAR
NEBADHAI DUTTAPUKUR (CITY)
NORTH 24 PARGANA
WEST BENGAL
PIN-743248
VERSUS

UNION OF INDIA

REPRESENTED BY SHRI RAMEKBAL ROY
INTELLIGENCE OFFICER
DIRECTORATE OF REVENUE INTELLIGENCE
GUWAHATI ZONAL UNIT
MAINAAK TOWERS
GROUND AND 1ST FLOOR
G.S. ROAD
CHRISTIAN BASTI
KAMRUP (M)
GUWAHATI-781005

Advocate for : MR. A ROY
Advocate for : SC
DRI appearing for UNION OF INDIA

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

11.12.2024

Heard Mr. B. Deka, learned counsel for the applicants. Also heard Mr. M. K. Boro, learned Standing Counsel, DRI for the respondent.

This interlocutory application is filed in connection with Criminal Petition No. 794/2024 pursuant to the order dated 13.09.2024.

This application is filed under the provisions of Section 438 of the Code of Criminal Procedure, 1973, praying for the grant of anticipatory bail to the accused/applicants, who are apprehending arrest in connection with NDPS Case No. 35/2023, which is pending before the Court of the learned Additional District & Sessions Judge No. 02, Kamrup (M), Guwahati.

The scanned copy of the LCR has been received and I have perused the same.

It is submitted by Mr. Deka, learned counsel for the applicants, that during the investigation, they never received any notices under Section 67 of the NDPS Act from the investigating authority. However, despite not receiving any notice, the charge-sheet was filed by the Investigating Officer (IO), showing them as absconders along with three others. He further submitted that the present petitioners are husband and wife, and the only allegation against them is that they transferred money to M/s

Pundit Traders, from which the co-accused, Gopal Chandra Rai, received Rs. 15,000/-. Surprisingly, no witnesses from Axis Bank have been made parties to the case. It is also evident from the charge-sheet that, without any proper account number, name, address, PAN number, etc., the bank is not in a position to search the aforementioned transaction details. Despite such a report from the bank authority, the case has been charge-sheeted against the two present petitioners, showing them as absconders, with the allegation that they are involved in the money transaction to the main accused, Gopal Chandra Rai.

He further submits that the petitioners are ready and willing to appear before the learned Trial Court on each and every date fixed by the said court if some protection is granted to them. He also submitted that the trial court issued a Non-Bailable Warrant of Arrest (NBWA) on the first day of receiving the charge-sheet, i.e., on 16.03.2023, without even issuing a summons to the applicants, and without complying with the guidelines of the Hon'ble Apex Court. Furthermore, on 18.07.2023, the matter was split up, and a production warrant was issued against the petitioners along with two others.

In this context, Mr. Boro, learned Standing Counsel, has submitted that the department had issued two summons, but the petitioners intentionally failed to appear before the investigation agency during the investigation. He further submits that this is a case where not only Rs. 15,000/- was transacted, but several other amounts have already been transferred to the accounts of these petitioners from unknown sources. It is also an admitted fact that the petitioners are shown as absconders. Accordingly, he submits that the petitioners may be directed to appear before the learned Trial Court to proceed with the case.

Considering the submissions made by the learned counsels for both sides and also considering the conduct of the accused/applicants, I hereby direct the applicants to appear before the Court of the learned Additional District & Sessions Judge No. 02,

Kamrup (M), Guwahati, within 15 (fifteen) days from today, and to file a fresh petition for regular bail. Upon filing of such a petition, the learned court below shall consider and dispose of the same in accordance with law. Until then, the execution of the NBWA, if any, issued against the applicants, stands stayed/suspended.

With the above observation and direction, this interlocutory application stands disposed of.

JUDGE

Comparing Assistant