

GAHC010218752024



2024:GAU-AS:12136

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

Case No. : AB/2778/2024

MANTU DEBNATH AND ANR
S/O SRI MALIN CH. DEBNATH
R/O VILL- JARANGDISHA
PVM ROAD, LUMDING,
P.O. AND P.S. LUMDING,
DIST. HOJAI, ASSAM

2: SRI SWAPAN DEY @ MAMU
S/O LATE SADHAN CH. DEY
R/O BRICK FIELD CHUNA PATTY

LUMDING
PIN-782447
P.O. AND P.S. LUMDING
DIST. HOJAI
ASSA

VERSUS

THE STATE OF ASSAM AND ANR.
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. N K KALITA,

Advocate for the Respondent : PP, ASSAM,

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

02/12/2024

Heard Mr. N K Kalita, learned counsel for the petitioners and Mr. M P Goswami, learned Additional Public Prosecutor, Assam for the State.

2. The petitioners, namely, **(i) Sri Mantu Debnath**, son of Sri Malin Ch. Debnath, resident of Village-Jarangdisha, PVM Raod, Lumding, P.O. Lumding, District-Hojai and **(ii) Sri Swapan Dey @ Mamu**, son of Late Sadhan Ch. Dey, resident of Brick Field Chuna Patty, Lumding, P.O. Lumding, District-Hojai have filed this application under Section 482 of BNSS, 2023, seeking pre-arrest bail apprehending their arrest in **Lumding P.S. Case No. 98/2024** registered under Section 7 of the Lotteries (Regulation) Act, 1998 corresponding to G.R. No. 2046/2024.

3. As per the FIR of the case, the petitioners, President and Secretary of Sarbajanin Sitalabari Development Committee, Lumding for the development of the Sitalabari Temple arranged a lottery without taking any prior permission from the authority concerned and also in violation of the order dated 03.10.2024 passed by the Hon'ble Division Bench of this Court in PIL No. 29/2022. As such, Lumding P.S. Case No. 98/2024 under Section 7 of the Lotteries (Regulation) Act, 1998 was registered against the petitioners.

4. Accordingly to the petitioners, prior to the order of the Court dated 03.10.2024 passed by the Hon'ble Division Bench in said PIL No. 29/2022, the Sarbajanin Sitalabari Development Committee sold the lottery tickets for the development of Sitalabari Temple and as such, they approached this Court for their pre-arrest bail.

5. By order dated 23.10.2024, the Court granted interim pre-arrest bail to both the petitioners, named above.

6. Perused the case diary placed before the Court by Mr. Goswami, learned Additional Public Prosecutor, Assam

7. Mr. Goswami, learned Additional Public Prosecutor, Assam from the case diary submitted that the petitioners appeared before the concerned Investigation Officer of the case and their statements have already been recorded and that they are co-operating with the investigation of the case.

8. Considering the materials available in the case diary, the Court is of the view that custodial detention of the petitioners, named above, is not warranted to investigate the said Lumding P.S. Case No. 98/2024. As such, this pre-arrest bail application of the petitioners is accepted.

9. The petitioners, namely, **(i) Sri Mantu Debnath**, and **(ii) Sri Swapan Dey @ Mamu** are already on interim bail in said **Lumding P.S. Case No. 98/2024** granted to them earlier by this Court on 23.10.2024 and the same is hereby made absolute, subject to the full compliance of the terms and conditions as specified in the said order dated 23.10.2024.

10. Any violation of any of the terms and conditions as specified in the said order dated 23.10.2024, noted above, the pre-arrest bail granted to the petitioners in said **Lumding P.S. Case No. 98/2024** shall stand automatically vacated.

11. Accordingly, this pre-arrest bail application stands allowed to the extent above.

12. Return the case diary.

JUDGE

Comparing Assistant