

GAHC010229952024



2024:GAU-AS:11202

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

Case No. : AB/2901/2024

MD. ANSER ALI @ AMSER ALI AND ANR
S/O LATE ABEJ ALI, R/O VILL- TUKRABANDA LOTIA, P.S.-CHIRAKUTA,
DIST- DHUBRI, ASSAM, PIN-783348

2: AFZAL HUSSAIN @ ABJAL HUSSAIN
S/O MD. ANSER ALI @ AMSER ALI
R/O VILL- TUKRABANDA LOTIA
P.S.-CHIRAKUTA
DIST- DHUBRI
ASSAM
PIN-78334

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR A K AZAD, MR. I HUSSAIN

Advocate for the Respondent : PP, ASSAM,

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

18-11-2024

Heard Mr. A. K. Azad, learned counsel for the petitioners and Mr. B. Sarma, learned Additional Public Prosecutor, Assam for the State.

2) Apprehending their arrest, the petitioners, namely, (1) **Md. Anser Ali @ Amser Ali**, son of Late Abej Ali and (2) **Afzal Hussain @ Abjal Hussain**, son of Md. Anser Ali @ Amser Ali, both are resident of Village-Tukrabanda Lotia, under Chirakuta Police Station of District-Dhubri, have filed this application under Section 482 BNSS praying for their pre arrest bail in Bharalumukh Police Station Case No. 188/2024 under Section 61(2)/140(3) of the BNS 2023, corresponding to GR No. 6110/2024.

3) Petitioner Nos. (i) and (ii) are father and son. By order dated 04.11.2024 the Court granted interim pre-arrest bail to the petitioner No.1 in said Bharalumukh PS Case No. 188/2024.

4) Mr. Azad, learned counsel for the petitioners stated that on receipt of Notice under section 35(3) BNSS in Bharalumukh PS Case No. 188/2024, apprehending their arrest they filed this anticipatory bail application in the said case.

5) Mr. Azad, learned counsel for the petitioners submitted that in the FIR relating to said Bharalumukh PS Case No. 188/2024 there is no allegation against the petitioner No.1 who is an old man of 80 years. He stated that on obtaining interim bail on 04.11.2024 the petitioner No.1 appeared before the concerned investigating officer of said Bharalumukh PS Case and cooperating with its investigation. As such, Mr Azad submitted that the interim pre-arrest bail granted to the petitioner No.1 on 04.11.2024 in said Bharalumukh PS Case No. 188/2024 should be made absolute.

6) With regard to the petitioner No. 2, Mr. Azad, learned counsel submitted that the said petitioner will co-operate with the investigation of the case and shall comply with all the terms and conditions that may be imposed upon him on consideration of his pre-arrest bail in

said Bharalumukh PS Case No. 188/2024.

7) As per the FIR dated 17.10.2024 lodged by the informant/ complainant, the case is that on last 03.10.2024 believing a phone call of FIR named accused No.1 Md. Abdullah Ali, her daughter Ms. Ramena Khatun, aged about 25 years and son-in-law Rafikul Islam, temporarily residing at Santipur Hill Side, under Bharalumukh police station left for Tukrabanda under Bilasipara with ₹4,00,000/- in cash and golden ornaments, leaving behind their 5 years old son with the said informant. But after leaving for Tukrabanda, the informant could not contact her daughter and son-in-law on their phones and found their mobiles switched off. At the same time, she also found that the phone of Md. Abdullah Ali, who called her daughter over phone, was also switched off. Informant stated that it is said Md. Abdullah Ali who called her daughter and son-in-law informing them that they will conduct a game of lottery. The informant for such reasons believes that the accused persons have kidnapped her daughter and sold her at some other place. By the said FIR the informant requested the authority of Bharalumukh Police Station to enquire into the matter and to recover her daughter Ms. Ramena Khatun.

8) Said FIR dated 17.10.2024 of the informant/complainant, was accordingly registered as Bharalumukh PS Case No. 188/2024 under Section 61(3)/140(3) BNS.

9) Mr. Sarma, learned Additional Public Prosecutor has placed the case diary of said Bharalumukh PS Case No. 188/2024 and stated that the petitioner No. 1 is the uncle-in-law of said missing girl, Ms. Ramena Khatun, and the petitioner No. 2 is her Brother-in-law.

10) Mr. Sarma, learned Additional Public Prosecutor submitted that the petitioner No. 1, uncle-in-law of the missing girl, after obtaining interim pre-arrest bail though appeared before the Investigating Officer of the case, but from the case diary he submitted that the petitioner No.1 is not cooperating with the investigation of the case and the said missing girl could not be recovered till date.

11) From the case diary, Mr. Sarma, learned Additional Public Prosecutor submitted that Rafikul Islam, husband of the missing girl Ms. Ramena Khatun, in a pre-planned manner arranged a phone call from the accused Md. Abdullah Ali and Co-accused Habijul Islam, brother of accused Rafikul Islam. The said co-accused Habijul Islam arranged a fake news

that said Rafikul Islam is missing. As per the case diary, it is only with the advice, support and influence of the present petitioner No. 1, uncle-in-law of the missing girl and other family members accused Rafikul Islam solemnized one by one, four marriages in different places of the State and after such marriages, family members of the accused persons used to collect huge money from each of the wives, else they were threatened to kill them and under compelling situations, those wives took divorce from the accused Rafikul Islam. Case Diary shows the presence of the accused Rafikul Islam but the missing girl Ms. Ramena Khatun could not be recovered. Case Diary also reveals that the family members of the petitioners and other accused persons Rafikul Islam, Habijul Islam and others are not cooperating with the investigation of the case, for which the victim girl could not be recovered.

12) Placing the materials in the case diary, Mr Sharma learning Additional Public Prosecutor vehemently objected for releasing the petitioners on pre-arrest bail in said Bharalumukh PS Case No. 188/2024.

13) On perusal of the case diary sufficient incriminating materials have been found against both the petitioners. Moreover, the Petitioner No. 1 also did not cooperate with the investigation of the case.

14) Considering entire circumstances of the case and the materials in the case diary, this pre-arrest bail application of the petitioners, (1) **Md. Anser Ali @ Amser Ali**, son of Late Abej Ali and (2) **Afzal Hussain @ Abjal Hussain**, son of Md. Anser Ali @ Amser Ali in said Bharalumukh PS Case No. 188/2024 stands **rejected**.

15) Interim pre-arrest bail granted to the petitioner No.1, **Md. Anser Ali @ Amser Ali**, son of Late Abej Ali in said Bharalumukh PS Case No. 188/2024 earlier on 04.11.2024 is hereby recalled and stands vacated.

16) Return the case diary herewith.

JUDGE

Comparing Assistant