

GAHC010240412024



2024:GAU-AS:11252

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

Case No. : AB/3002/2024

ANANDITADAS @ ANINDITA DAS,
D/O-PHANIDHAR DAS, R/O- KABARU GAON, P.S- GOLAGHAT, DISTRICT-
GOLAGHAT, ASSAM, PIN- 785702

VERSUS

THE STATE OF ASSAM
REP BY THE PP. ASSAM

Advocate for the Petitioner : MR D MEDHI, MR. J N SUWAI, B ALI SK, MR. S SARKAR, MR K THAKUR, MR B M DEKA, MS P. HAZARIKA, S YESMIN

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

19-11-2024

Heard Mr. A Chamuah, learned counsel for the petitioner and Mr. K K Parashar, learned Additional Public Prosecutor, Assam for the State.

2. By this application under Section 482 of the BNSS, 2023, the petitioner, namely, **Anandita Das @ Anindita Das**, daughter of Phanidhar Das, resident of village-Kabaru Gaon, Police Station-Golaghat, District-Golaghat apprehending her arrest, is seeking pre-arrest bail in Bharalumukh Police Station Case No. 200/2024 corresponding to G.R. No. 6663/2024 registered

under Sections 189(2)/189(3)/192/224/270/351(3)/352/353(2) of the BNS, 2023 read with Section 3 of the Prevention of Damage to Public Property Act, 1984.

3. As per the FIR dated 10.11.2024 lodged by one Sub-Inspector of Police before the Bharalumukh Police Station, the case is that while he was on patrolling duty, at about 04:5 AM on 10.11.2024 an information was received that some miscreants with criminal intention of rioting without any intimation and permission gathered and formed an unlawful assembly at Bharalumukh area in the name of protest against the proposed new flyover on Railway Gate No. 09. The people gathered there were chanting slogans against the State and the Hon'ble Chief Minister of the State. Later they have prepared an art/sketch on plastic tripal, writing "KICK HIMANTA". The persons were instigating and intimidating the common people to go against the administration and the State. The miscreants defaced the Government Road and wall using colours in the name of art and hanged posters, banners and play cards on Government property illegally.

4. Accordingly, Bharalumukh Police Station Case No. 200/2024 under Sections 189(2)/189(3)/192/224/270/351(3)/352/353(2) of the BNS, 2023 read with Section 3 of the Prevention of Damage to Public Property Act, 1984, corresponding to G.R. No. 6663/2024 was registered against the petitioner and other accused persons of the case.

5. According to the petitioner, she is a practicing advocate and has been falsely implicated in the case.

6. The petitioner took part in her democratic right to protest against the Government relating to its proposal of cutting down the trees for the proposed construction of an over bridge at Railway Gate No. 9, Bharalumukh and did not act in any manner in preparing any painting, sketch etc. to demean the Government and its authorities.

7. Petitioner submitted that she will abide by any terms and conditions for her release on pre-arrest bail in said Bharalumukh Police Station Case No. 200/2024.

8. Pursuant to the order dated 14.11.2024, Mr. K K Parashar, learned APP, Assam has placed the relevant case diary of said Bharalumukh P.S. Case No. 200/2024 and has submitted that two of the FIR named accused persons have already been arrested in the case.

9. Mr. K K Parashar, learned APP, Assam has also submitted that the petitioner is also one of the

FIR named accused person of the case and that the arrested accused persons of the case indicated that the petitioner paid them money to make the wall painting/sketch for the said protest at Railway Gate No. 9, Bharalumukh against the proposed uprooting of the tress for construction of the over bridge at the said Railway Gate.

10. From the case diary and the note of the concerned I.O. of the case, it is seen that two of the arrested accused persons while preparing the sketch in protest against the uprooting of trees at Railway Gate No. 9, Bharalumukh, being annoyed with such act inscripted the word "KICK HIMANTA" "SAVE NATURE" and on coming to know about their mistake, those two artists immediately replaced the word "KICK" with the word "PLEASE", but some of the people gathered there clicked the said painting "KICK HIMANTA" "SAVE NATURE" and made it viral, though the said mistake was immediately corrected by those two artists/arrested accused persons who had drawn the said painting.

11. Considering the above, this Court is of the opinion that custodial detention of the petitioner is not warranted to investigate said Bharalumukh Police Station Case No. 200/2024. As such, this pre-arrest bail application is accepted.

12. Accordingly, in the event of arrest of the petitioner, namely, **Anandita Das @ Anindita Das**, in said Bharalumukh Police Station Case No. 200/2024, corresponding to G.R. No. 6663/2024, she shall be released on bail on furnishing a bail bond of Rs. 35,000/- with two local sureties of the like amount, one of which shall be a Government Employee, either State or Central Government, to the satisfaction of the arresting authority, subject to the conditions that petitioner – (i) shall appear before the concerned Investigating Officer of said Bharalumukh P.S. Case No. 200/2024 **on or before 22.11.2024** during the office hours and thereafter, as and when she is required for necessary investigation of said Bharalumukh P.S. Case; (ii) shall not leave the territorial jurisdiction of said Bharalumukh Police Station, without obtaining prior written permission from the concerned Investigating Officer of the case; (iii) shall not hamper with the investigation, or tamper with the evidence of the case; (iv) 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 them from disclosing such facts to the Court or to any police officer and (v) shall not involve herself in any criminal activities in future.

13. Any violation of any of the aforesaid terms and conditions by the petitioner, namely,

Anandita Das @ Anindita Das, the pre-arrest bail granted to her in said Bharalumukh Police Station Case No. 200/2024 shall stand automatically vacated.

14. This pre-arrest bail application accordingly stands disposed of.

15. Return the case diary.

JUDGE

Comparing Assistant