

GAHC010244252024



2024:GAU-AS:12198

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

Case No. : Bail Appln./3522/2024

BICKY BORSAIKIA AND 2 ORS.
S/O LATE DIPANTAR BARSAIKIA
R/O CENTRAL NAMGHAR, DULIAJAN UNDER DULIAJAN POLICE STATION
IN THE DIST OF DIBRUGARH, ASSAM

2: KHYATI SAIKIA
S/O SHRI ANIL SAIKIA
R/O KAMALABARI
DULIAJAN UNDER DULIAJAN POLICE STATION IN THE DISTRICT OF
DIBRUGARH
ASSAM

3: PORAG BORAH
S/O SRI DIGANTA BORAH
R/O TINGIRIMORA
KUMAR GAON
UNDER PULIBOR POLICE STATION
IN THE DISTRICT OF JORHAT
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. B M CHOUDHURY, MR. U CHOUDHURY

Advocate for the Respondent : PP, ASSAM,

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

03/12/2024

Heard Mr. B M Choudhury, learned counsel for the petitioners and Mr. K K Parashar, learned Additional Public Prosecutor, Assam for the State respondent.

2. This application under Section 483 of BNSS, 2023 has been filed by the petitioners, namely, **(i) Sri Bicky Borsaikia**, son of Late Dipantar Barsaikia, resident of Central Namghar, Duliajan, P.S. Duliajan, District-Dibrugarh, **(ii) Sri Khyati Saikia**, son of Sri Anil Saikia, resident of Kamalabari, Duliajan, P.S. Duliajan, District-Dibrugarh and **(iii) Sri Porag Borah**, son of Sri Diganta Borah, resident of Tingirimora, Kumar Gaon, P.S. Publibor, District-Jorhat, seeking bail in **Pulibor P.S. Case No. 138/2024** registered under Sections 111/303(2)/62/61(2) of BNS read with Section 15(4) of Petroleum & Minerals Pipe Lines (Acquisition of Right of User in Land) Act, 1962 read with Sections 25(6)/30 of the Arms Act, 1959 read with Section 3(2)(b) of Public Property (Prevention of Damage) Act, 1985 corresponding to G.R. No. 703/2024, wherein they were arrested on 20.10.2024 and are in custody since then.

3. As per the FIR lodged by the Sub-Inspector of Police, Pulibor Police Station before the Officer-in-Charge of Pulibor Police Station, the case is that on receipt of specific information from source that a group of persons equipped with weapons are committing theft of oil by cutting the oil pipelines situated at Puranimati Satra Na Pamua Gaon aream, police personnel from Pulibor Police Station after making necessary G.D. Entry proceeded to the place of occurrence and found the present petitioners and three others involved in removing the soil over the pipelines to cut the underground oil pipelines for committing theft of crude oil. Police personnel recovered (i) one Grill machine kit, (ii) 3 nos. of Vulture, (iii) one Heckshaw blade, (iv) one iron rod, (v) one piece of iron pipe, (vi) one black safety glass, (vii) one coil of electric wire and (viii) one .32 NP BORE Pistol with 4 round of ammunition that was recovered from the possession of the petitioner No. 1. The petitioners were accordingly apprehended and the items found therein were seized.

4. According to the petitioners, they came to the said site on the basis of a contract work given to them by Oil India Limited and that they were no way connected with the alleged crime of the case.

5. Perused the case diary placed before the Court today by Mr. Parashar, learned Additional Public Prosecutor, Assam.

6. It is seen from the case diary that though the petitioners stated that they visited the site after getting a contract from Oil India Limited but none of the arrested persons could show any such contract awarded to them by the Oil India Limited with regard to the said land.

7. Case diary also reflects that they were found digging the earth above the underground pipeline with all the seized items to bore out the crude oil from the underground pipeline of Oil India Limited and to commit theft of crude oil sent through the pipeline. Case diary also reveals that bank accounts of the petitioners and other arrested accused persons of the case have been seized during the investigation of the case.

8. Further, the case diary indicates that some of the arrested accused persons in the case are better experienced in committing theft of oil by boring the pipelines of OIL and ONGC.

9. It is seen that the petitioners have led the police personnel to the site where they have all the requisite equipments for cutting the underground pipelines and items required for collecting of such crude oil. Police have also recovered Laptop, ammunition box, welding machine etc. from the places shown by the petitioners and also from the house of one of the petitioners used for such purpose.

10. Considering the progress in the investigation of the case from the case diary, this Court is of the view that further custodial detention of the petitioners, named above, is not warranted to investigate the said Pulibor P.S. Case No. 138/2024. As such, this bail application of the petitioners in said Pulibor P.S. Case is accepted.

11. Accordingly, the petitioners, namely, **(i) Sri Bicky Borsaikia, (ii) Sri Khyati Saikia and (iii) Sri Porag Borah** be released on bail in said **Pulibor P.S. Case No. 138/2024** registered under Sections 111/303(2)/62/61(2) of BNS, corresponding to G.R. No. 703/2024, on furnishing a bail bond of Rs.75,000/- each, with 2 (two) local sureties each of the like amount, one of which shall be a Government Employee, either Central or State Government, to the satisfaction of the learned Chief Judicial Magistrate, Jorhat, on conditions that the petitioners – **(i)** shall appear before the Investigating Officer of said Pulibor P.S. Case No. 138/2024 on every Monday during office

hours, i.e., 10:00 AM to 04:00 PM commencing from 16.12.2024 for the next two English calendar months or till filing of the chare-sheet in the case, whichever is earlier and also, as and when they are required for necessary investigation of the case; **(ii)** shall not leave the territorial jurisdiction of Pulibor 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 themselves in any criminal activities in future, failing which, the bail granted to them in said Pulibor P.S. Case No. 138/2024 shall stand automatically vacated.

12. Bail application accordingly stands allowed to the extent above.

13. Return the case diary.

JUDGE

Comparing Assistant