

GAHC010257662023



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

Case No. : AB/3949/2023

HANIF AHMED BARBHUIYA AND ANR
S/O LATE ISMAIL ALI BARBHUIYA
R/O VILL- RAJYESWARPUR PART-III,
P.S. LALA
DIST. HAILAKANDI, ASSAM
PIN-788163

2: HILAL UDDIN BARBHUIYA
S/O ABDUL JABBAR BARBHUIYA
S/O VILL- RAJYESWARPUR PART-III
P.S. LALA
DIST. HAILAKANDI
ASSAM
PIN-78816

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE PP, ASSAM, GUWAHATI- 781001

Advocate for the Petitioner : MR. M H RAJBARBHUIYAN

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN**

ORDER

Date : 12.01.2024

Heard Mr. M.H. Rajbarbhuiyan, learned counsel for the applicants. Also heard Ms. A. Begum, learned Addl. Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with Lala P.S. Case No. 242/2023, under Sections 120(B)/420/379 of the IPC, this application under Section 438 Cr.P.C. has been preferred by the applicants, namely, Hanif Ahmed Barbhuiya and Hilal Uddin Barbhuiya, for grant of pre-arrest bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by one Manik Malakar of Lala P.S. on 12.09.2023. The essence of allegation made in the FIR dated 12.09.2023, is that one Hilal Uddin Barbhuiya, Hanif Ahmed Barbhuiya and Kamruj Jaman Barbhuiya are involved in the conspiracy of illegally transporting suspected foreign origin betel nuts.

4. Mr. M.H. Rajbarbhuiyan, learned counsel for the applicants submits that the applicants had been granted the privilege of interim pre-arrest bail, vide order dated 22.11.2023, and pursuant to the said order, they have also appeared before the I.O. and that their statements have been recorded and they have been cooperating with the investigating agency, and therefore, a contention is being made to make the interim order dated 22.11.2023 absolute in the same terms and conditions.

5. On the other hand, Ms. Begum, the learned Addl. Public Prosecutor has produced the case diary before this Court and submits that investigation is still going on and the FSL report has already been collected, and as per the FSL

report, the samples are not confirmed to the standard and unfit for human consumption.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of Ms. Begum, learned Addl. Public Prosecutor.

7. It appears that the applicants have appeared before the I.O. and they have been cooperating with the investigating agency. It further appears that material part of the investigation is almost over and in that view of the matter, custodial interrogation of the applicants seems to be not warranted here in this case, and therefore, the interim order, dated 22.11.2023, is hereby made absolute in the same terms and conditions.

8. In terms of the above, this application stands disposed of.

JUDGE

Comparing Assistant