

GAHC010282742023



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

Case No. : AB/4199/2023

DHIRAJ CHOUDHURY AND 2 ORS
S/O HARI CHARAN CHOUDHURY R/O VILL DHARAPUR CHARIALI AZARA
P.S. AND P.O. AZARA DIST. KAMRUP M ASSAM PIN 781017

2: GITANJALI KALITA CHOUDHURY
D/O LT RAJDHAR KALITA W/O DHIRAJ CHOUDHURY R/O VILL
DHARAPUR CHARIALI AZARA P.S. AND P.O. AZARA DIST. KAMRUP M
ASSAM PIN 781017

3: PRATIBHA KALITA
W/O LT RAJDHAR CHOUDHURY R/O VILL DHARAPUR CHARIALI AZARA
P.S. AND P.O. AZARA DIST. KAMRUP M ASSAM PIN 78101

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. T N DAS

Advocate for the Respondent : PP, ASSAM

B E F O R E
HON'BLE MR. JUSTICE KAUSHIK GOSWAMI

23.01.2024

Heard Mr. A.K. Purakayastha, learned counsel appearing for the petitioners. Also heard Mr. D. Das, learned Addl. P.P., Assam appearing for the State respondent and Mr. D. Talukdar, learned counsel appearing for the informant.

2. This is an application under Section 438 of the Code of Criminal Procedure, 1973 for granting anticipatory bail to the petitioners, namely **1) Dhiraj Choudhury, 2) Gitanjali Kalita Choudhury and 3) Pratibha Kalita**, in connection with **Azara P.S. Case No. 261/2023** under Sections **120(B)/420/466/467** of the Indian Penal Code, 1860.

3. The case of the prosecution in brief is that the petitioners have submitted a fake deed in Misc (J) Case No. 464/2023 in Title Suit No. 277/2023 pending before the Civil Court situated at Guwahati. Accordingly, a case was registered. The petitioners apprehending that they shall be arrested in connection with the aforesaid case preferred the instant anticipatory bail petition.

4. This Court on 14.12.2023, while calling for the case diary was pleased to grant pre-arrest bail to the petitioner Nos. 2 and 3.

5. The case diary as called for is placed before the Court.

6. It appears from the case diary that the statements of the petitioner nos. 2 and 3 have been recorded under Section 161 of Cr.P.C. It further appears from the said statements of the petitioner nos. 2 and 3, the allegations made in the

FIR are correct and in fact has been done at the instance of the petitioner no. 1. There is no adverse report against the petitioner Nos. 2 and 3 from the I/O. This Court finds that custodial interrogation of the petitioner nos. 2 and 3 may not be required in the interest of the ongoing investigation into the case.

7. Accordingly, the interim pre-arrest bail granted vide order, dated 14.12.2023 is hereby made absolute, subject to the following conditions-

- (i) That the petitioners shall co-operate in investigation as and when required; and
- (ii) That the petitioners 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 him from disclosing such facts to the Court or to any police officer.

8. However, as regards grant of pre-arrest bail to the petitioner no. 1, considering the statements made by the petitioner nos. 2 and 3 under Sections 161 Cr.P.C, nature of allegation and the materials available on record, this Court is not inclined to grant the prayer. Accordingly, prayer for grant of pre-arrest bail to the petitioner no. 1 stands rejected at this stage.

9. With the above observation and direction, this petition stands disposed of.

10. Return the case diary.

JUDGE

Comparing Assistant