

GAHC010291802023



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

Case No. : AB/4333/2023

BISWAJIT DEBNATH AND ANR.
S/O SHRI GYAN RANJAN DEBNATH,
VILL. AND P.O.- PHULONIBAZAR, KARBI-ANGLONG, DIST.- KARBI-
ANGLONG, ASSAM, PIN- 782441.

2: NOVOMONI CHAKRABORTY
S/O LATE MUNISH CH. CHAKRABORTY

R/O JYOTIKUCHI
DHOPOLIA
P.O.- SAWKUCHI
GUWAHATI
DIST.- KAMRUP (M)
ASSAM
PIN- 781040

VERSUS

THE STATE OF ASSAM
REP. BY THE P.P., ASSAM.

Advocate for the Petitioner : MR J BORAH

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 26.02.2024

Heard Mr. J. Borah, learned counsel for the petitioners. Also heard Mr. K. K. Parasar, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 438 of the code of Criminal Procedure, 1973, praying for grant of pre-arrest bail to the accused/petitioners, who are apprehending arrest in connection with BI (EO) P.S. Case No. 03/2019, registered under Sections 120(B)/420/468/471/406/409 of the Indian Penal Code.

The Case Diary has been received. Perused the same. Heard both sides.

It is submitted by Mr. J. Borah, learned counsel for the petitioners, that it is a fact that the accused/petitioners took a loan from the bank and the loan was mortgaged by one Shri Mahendranth Mazumdar and the loan was sanctioned after receiving the valuation report from the valuer of the bank which was submitted on 17.10.2013. But, thereafter, the same valuer submitted another report saying that the land is not available. However, it is a fact that both the petitioners failed to repay the loan and in that context, one recovery certificate was also obtained by the bank authority. Further, after obtaining the interim pre-arrest bail, both the accused/petitioners appeared before the I.O. and cooperated in the investigation of the case and their statements were also

recorded under Section 161 Cr.P.C. They are still ready and willing to cooperate with the I.O. in the further investigation of this case and accordingly, it is prayed to make the interim pre-arrest bail order absolute.

In this context, Mr. Parasar, learned Additional Public Prosecutor, has submitted that both the accused/petitioners also received notice under Section 41 Cr.P.C. and after obtaining the interim pre-arrest bail, they appeared before the I.O. and cooperated in the investigation of this case. He further submitted that both the accused/petitioners were also worked under one Rajiv Ghosh and under his instruction only, the loan was obtained by the 2 (two) accused/petitioners with the help of one Bharali. Further he submitted that as the accused/petitioners are already cooperating with the I.O., their custodial interrogation may not be necessary and raised no objection in allowing the petitioner to go on pre-arrest bail.

After considering the submissions made by the learned counsels of both sides and also considering the materials available in the Case Diary as well as considering the fact that recovery certificate has already been obtained by the bank authority, viz-a-viz the cooperation from the accused/petitioners, I am of the view that custodial interrogation of the accused/ petitioners are not necessary and hence, I find it a fit case to extend the privilege of pre-arrest bail to the accused/petitioners. Accordingly, the interim pre-arrest bail order, granted to the accused/petitioners vide order dated 22.12.2023, is hereby made absolute with a direction to the accused/petitioners to co-operate with the I.O. in further investigation of the case.

In terms of above, this anticipatory bail application stands disposed of.

The Case Diary be sent back.

JUDGE

Comparing Assistant