GAHC010173032020

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

Case No. : AB/3474/2020

PRITHIRAJ ACHARJEE AND 2 ORS
S/O. SRI SUBOMAL ACHARJEE, R/O. ANANDAPARA, DIGBOI, P.O. AND P.S. DIGBOI, DIST. TINSUKIR, ASSAM.

2: JYOTI KUMAR SONAR
S/O. LT. JIT BAHADUR SONAR
R/O. P.N.G.B. ROAD
DIGBOI TOWN
P.O. AND P.S. DIGBOI
DIST. TINSUKIR
ASSAM.

3: DIPANKAR DEBNATH

S/O. LT. SUDHANGSHU DEBNATH
R/O. NO.1 LAZUM
MARGHERITA
P.O. AND P.S. MARGHERITA
DIST. TINSUKIR
ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY PP, ASSAM.

Advocate for the Petitioner : MR. A K GUPTA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE HITESH KUMAR SARMA

ORDER

Date : 22-12-2020

Heard Mr. P Borah, learned counsel for the petitioners. Also heard Mr. B Sarma, learned Additional Public Prosecutor, appearing for the State respondent.

This is an application, filed under Section 438 of the Cr.PC. seeking pre-arrest bail of the petitioners, namely, ***1. Sri Prithiraj Acharjee, 2. Sri Jyoti Kumar Sonar*** and ***3. Sri Dipankar Debnath,*** in connection with ***Digboi P.S. Case No. 240/2020*** registered under Sections 380/467/34 of the IPC.

Perused the case diary produced before this Court.

The allegation against the petitioners, particularly the petitioner No. 3, is that while the husband of the informant was unwell, the petitioner No. 3 developed some good relationship with them and used to visit their residence. The petitioner No. 3 had stolen cheque books with signed cheques of the husband of the informant, Abdul Kalam, and thereafter, had withdrawn an amount of Rs. 40 lakhs from Bank on different dates.

On perusal of the materials in the case diary, it appears that as against the allegations made in the FIR, the statement of the Bank Manager, as witness, shows that for every withdrawal, the husband of the informant, i.e., the signatory of the cheques was very much present in the Bank. The signatures on the cheques were of the husband of the informant is not in dispute. The statement of the Bank Manager, as available in the case diary, shows that the chques were, in fact, issued by the husband of the informant as he was present at the Bank at the time of each withdrawal.

On the other hand, although the fraud has been allegedly practiced for an amount of Rs. 40 lakhs, yet a copy of the legal notice served upon the petitioner No. 3 by the aforesaid Abdul Kalam (husband of the informant) through his lawyer shows that Rs. 21,50,000/- was withdrawn from his Bank Account with cheques under his signatures. The copy of the said legal notice placed by the learned counsel for the petitioners before this Court is kept with the records.

The materials, so far collected by the Investigating Police Officer, do not appear to have specifically implicated the petitioner Nos. 1 and 2. The entire case, on facts, appears to be against petitioner No. 3 and so far the petitioner No. 3 is concerned, this Court has already discussed the facts in the foregoing paragraphs.

Considering the facts, as indicated above, this Court is of the view that the petitioners are entitled to the privilege of pre-arrest bail. Therefore, granted.

The petitioners shall appear before the Investigating Police Officer within 7 (seven) days from today so as to enable the Investigating Police Officer to record their statements, and, in the event of their arrest, they shall be released on furnishing a bail bond of Rs. 20,000/- each with a suitable surety each of the like amount to the satisfaction of the arresting authority, on the conditions:-

1. The petitioners shall not leave the territorial jurisdiction of the aforesaid police station, without prior written permission from its officer-in-charge,
2. The petitioners shall not hamper with the investigation, or tamper with the evidence of the case, and
3. 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.

Return the case diary.

The petition stands disposed of accordingly.

JUDGE

Comparing Assistant