GAHC010304452019

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

Case No. : AB/4431/2019

MONIKA ROY CHOUDHURY @ MONIKA DEVI CHOUDHURY AND ANR.
W/O DEBI PRASAD ROY CHOUDHURY, R/O HAILAKANDI TOWN WARD NO. 8, LAKSMISAHAR, P.S. AND DIST-HAILAKANDI (ASSAM)

2: DEBI PRASAD ROY CHOUDHURY
S/O HARIPADA ROY CHOUDHURY
R/O HAILAKANDI TOWN WARD NO. 8
LAKSMISAHAR
P.S. AND DIST-HAILAKANDI (ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. A H M R CHOUDHURY

Advocate for the Respondent : PP, ASSAM

Linked Case : AB/3009/2019

ABDUL KALAM LASKAR
S/O LATE BASIR UDDIN LASKAR
R/O VILL-NITAINAGAR PART-II
P.S. AND DIST-HAILAKANDI (ASSAM)

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR
ASSAM

Advocate for : MS. R CHOUDHURY
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

Linked Case : AB/3015/2019

ABDUL KALAM LASKAR
S/O LATE BASIR UDDIN LASKAR
R/O VILL-NITAINAGAR PART-II
P.S. AND DIST-HAILAKANDI (ASSAM)

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR
ASSAM

Advocate for : MS. R CHOUDHURY
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

BEFORE
HON'BLE MRS. JUSTICE RUMI KUMARI PHUKAN

O R D E R

10-12-2020.

All these three pre-arrest bail applications filed under Section 438 of the CrPC, have originated from the same incident between the parties, which resulted in lodging of different police cases on the same content. Hence all the petitions are taken up together for disposal.

By filing the AB No.4431/2019, the two petitioners namely, Monika Roy Choudhury @ Monika Devi Choudhury and Debi Prasad Roy Choudhury have sought for pre-arrest bail in connection with the Hailakandi P.S. Case No.496/2019, registered under Section 420/468/34. On the other hand, by filing the AB No.3009/2019, petitioner Abdul Kalam Laskar has sought for pre-arrest bail in connection with the Hailakandi P.S. Case No.496/2019, registered under Sections 420/468/34 of the IPC and filing the AB No.3015/2019, petitioner Abdul Kalam Laskar has sought for pre-arrest bail in connection with the

Hailakandi P.S. Case No.285/2019, registered under Sections 447/468/420/34 of the IPC.

As per the allegation, one Anita Roy filed a complaint in the Court of learned CJM, Hailakandi (which was subsequently registered as Hailakandi P.S. Case No.496/2019, under Section 420/468/34) alleging that the accused persons namely, Monika Devi Choudhury, Debi Prasad Roy Choudhury, Abdul Kalam Laskar, Deeju Pada Chakrabarty and Biswajit Purkayasta plotting together had executed a sale deed in her favour projecting a lady as Shika Purkayasta, as the original owner and thereby cheated her and grabbed an amount of Rs.1,20,000/- as the sale proceed. It was however subsequently known that Monika Devi Choudhury falsely indentified herself as the original owner Shika Purkayasta, while executing the sale deed and other accused persons were associated in execution of the sale deed in an illegal manner.

Another FIR was filed by the original owner Shika Purkayasta, alleging that the aforesaid sale deed has been executed fraudulently by all the accused persons by manipulating her signature in the sale deed. The case has been registered as Hailakandi P.S. Case No.285/2019, under Sections 447/468/420/34 of the IPC. It is stated by Shika Purkayasta that she had duly purchased the land in the year 1995 and while staying at Pune, taking advantage of her business, the accused persons have sold the land to Anita Roy.

Two of the accused persons are now before this Court, praying for anticipatory bail in connection with the above noted case.

The case diaries have been produced and gone through.

It reveals from the records that the present these accused/petitioners along with other FIR named accused prepared a false sale deed by putting false signature of Shika Purkayasta and sold 3 kathas of land to Anita Roy. It is found that all the accused persons by forming a group forged the aforesaid documents, whereas according to the original owner Shika Purkayasta never executed such sale deed in favour of Anita Roy. The original owner and her husband and other witnesses have been examined. The disputed sale deed was sent for FSL examination and it reveals that the signature's on the disputed sale deed does not tally with the signature of the original owner Shika Purkayasta.

Sufficient complicity of the present petitioners is made out that they conjointly prepared the forged sale deed in the name of the original owner, as has been alleged in the above two FIRs. The offence is obviously serious in nature when perpetuated in a designed manner.

Considering all entirety of the matter, this Court is of the opinion that this is not a fit case to grant the privilege of pre-arrest bail. Accordingly the same are rejected.

The interim order passed earlier stands vacated.

Return back the case diaries forthwith.

JUDGE

Comparing Assistant