

GAHC010015092024



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

Case No. : AB/199/2024

DEEPAMONI PATHAK @ DEEPAMONI DAS
W/O BHABANANDA PATHAK
R/O KALAPAHAR, MILAN PATH,
P.S. FATA SHIL AMBARI ,
DIST. KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. P K ROYCHOUDHURY

Advocate for the Respondent : PP, ASSAM

**BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN**

ORDER

07.03.2024

Heard Mr. P.K. Roychoudhury, learned counsel for the applicant and also heard Mr. P.S. Lahkar, learned Additional Public Prosecutor, Assam, appearing for the State

respondent.

2. This application, under Section 438 Cr.P.C. is preferred by the applicant, namely, Smt. Deepamoni Pathak @ Deepamoni Das, who has been apprehending arrest in connection with Basistha P.S. Case No.739/2023, under Section 120B/447/420/468/471 IPC, 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 Dipankar Kalita, on 28.11.2023. The essence of allegations made in the aforesaid FIR is that one Bhabananda Pathak with the help of one Nitul Das prepared forged document and grab the land, standing in the name of the mother of the informant situated at Saukuchi Town, under Beltola Mouza, covering Dag No.933, Patta No.773.

4. Mr. Roychoudhury, learned counsel for the applicant submits that the applicant is a house wife and her husband Bhabananda Pathak has purchased a plot of land in her name and thereafter, he purchased the same from the present applicant and that her husband Bhabananda Pathak was arrested here in this case and has already been granted bail by this Court vide order dated 20.02.2024, in Bail Appln. No.309/2024 and another co-accused, namely, Nitul Das has also been granted bail by this Court on 08.02.2024 in Bail Appln. No.117/2024 and that the accused is a lady and she is ready to cooperate with the investigating agency and therefore, Mr. Roychoudhury contended to extend the privilege of pre-arrest bail to the applicant. Mr. Roychoudhury further pointed out that the applicant had received notice from the I.O. under Section 41A Cr.P.C. and pursuant to the said notice, she had appeared before the I.O. and cooperating with the investigating agency.

5. On the other hand, Mr. P.S. Lahkar, learned Additional Public Prosecutor, Assam, has produced the case diary before this Court and submits that the I.O. has collected some materials in support of the allegation made in the FIR and therefore, Mr. Lahkar has opposed the petition. However, to a pointed query of this Court, Mr. Lahkar submits that a notice under Section 41A Cr.P.C. was issued to the applicant and she had appeared before

the I.O. and her statement was also recorded.

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 Mr. Lahkar, learned Additional P.P. and also gone through the bail order dated 08.02.2024, in Bail Appln. No.117/2024 and the bail order dated 20.02.2024, in Bail Appln. No.309/2024.

7. It appears from the case diary that the I.O. has collected some materials against the present applicant. But, it also appears that the applicant has been cooperating with the investigating agency and she appeared before the I.O. after receiving notice under Section 41A Cr.P.C.

8. Considering above and also considering the fact that the applicant is a lady as well as the progress of investigation, her custodial interrogation seems to be not warranted here in this case and therefore, this Court is inclined to allow this petition. It is provided that in the event of arrest of the applicant, namely, Smt. Deepamoni Pathak @ Deepamoni Das, in connection with Basistha P.S. Case No.739/2023, under Section 120B/447/420/468/471 IPC, she shall be enlarged on pre-arrest bail on her executing a bond of ₹ 50,000/- with one surety of the like amount to the satisfaction of the arresting authority. The above privilege is, however, subject to the following conditions:-

- (i) The applicant shall make herself available for interrogation by the Investigating Officer as and when required;
- (ii) The applicant 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; and
- (iii) The applicant shall not leave the jurisdiction of the learned C.J.M., Kamrup(M), without prior permission.

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

10. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant