

GAHC010021312024



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

Case No. : AB/266/2024

ADITYA BHATTAR AND 3 ORS
SON OF SRI GANESH PRASAD BHATTAR, R/O- H.NO.3, NEAR RAILWAY
GATE NO.7, B.R. PHUKAN BYE LANE, KUMARPARA, GUWAHATI- 781009,
KAMRUP (M), ASSAM

2: SRI GANESH PRASAD BHATTAR
SON OF LATE BHANWARLAL BHATTAR
R/O- H.NO.3
NEAR RAILWAY GATE NO.7
B.R. PHUKAN BYE LANE
KUMARPARA
GUWAHATI- 781009
KAMRUP (M)
ASSAM

3: SMT. BHAWRI DEVI BHATTAR
WIFE OF SRI GANESH PRASAD BHATTAR
R/O- H.NO.3
NEAR RAILWAY GATE NO.7
B.R. PHUKAN BYE LANE
KUMARPARA
GUWAHATI- 781009
KAMRUP (M)
ASSAM

4: SRI NIKITA BHATTAR
WIFE OF SRI ADITYA BHATTAR
R/O- H.NO.3
NEAR RAILWAY GATE NO.7
B.R. PHUKAN BYE LANE
KUMARPARA
GUWAHATI- 781009
KAMRUP (M)
ASSA

VERSUS

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

Advocate for the Petitioner : MR. D BARUAH

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

ORDER

Date : 25.04.2023

Heard the learned counsel for the parties.

By this application under section 438 Cr.P.C., the petitioners, namely, **1. Sri Aditya Bhattar, 2. Sri Ganesh Prasad Bhattar, 3. Smti Bhawri Devi Bhattar, & 4. Sri Nikita Bhattar** have prayed for granting pre arrest bail who are apprehending arrest in connection with ***Paltanbazar PS Case No.10/2024*** under sections ***120(B)/409/420 IPC***.

The basic grievance is to the effect that accused Nos.2 and 3 introduced themselves before the informant as managers of one Aklavya OnLine (India) Private Limited and promised to supply genuine, prompt and discounted air tickets for all the airlines. On such promise and assurance, the informant started purchasing air tickets of various airlines from the accused persons for the purpose of reselling the same tickets to various sub-agents and air travelers. However, on many occasions the tickets purchased from the accused were cancelled at the last moment of travel and in such a situation the informant were compelled to repurchase tickets for customers/agents at premium prices at the last moment.

It is also alleged that the petitioners have also cheated other travel agencies and it is alleged that the modus operandi of the petitioners is to have undue benefits from refund money for cancellation of tickets.

This court under its order dated 06.02.2024 after hearing the learned counsel for the petitioners as well as the learned Addl. PP granted interim protection to the petitioners.

The case diary called for has been received and the same is perused.

The learned counsel for the petitioners submits that after grant of interim protection they have appeared before the investigating officer, cooperated with the investigation and their statements were also recorded by the investigating officer. By way of filing additional affidavit the petitioners have brought on record that they appeared on more than one occasion and also submitted all the documents which were asked by the investigating officer.

The leaned Addl. PP however contends that the petitioners are involved in financial fraud and therefore, such economic offender should not be granted anticipatory bail.

The learned counsel for the informant has vehemently opposed the prayer of grant of bail to the petitioners on the ground that the offences are serious in nature and such person should not be allowed to go on anticipatory bail inasmuch as the offences are economic offence and interest of the society is required to be looked into.

In support of such contention the learned counsel relies on the decision of the hon'ble Apex Court in the case of ***Siddharam Satlingappa Mhetre vs State Of Maharashtra And Ors*** reported in ***2011 1 SCC 694***.

It is further contended by the learned counsel that the nature of allegations are serious and therefore, the investigating authority must be given sufficient freedom to process with the investigation including the custodial interrogation and therefore, the present petition should be dismissed.

Referring to the decisions of the hon'ble Apex Court in the case of ***Union of India Vs. Padam Narain Aggarwal and others*** reported in ***(2008) 13 SCC 305***, and ***P. Chidambaram Vs. Directorate of Enforcement*** reported in ***(2019) 9 SCC 24***, the learned counsel further contends that the freedom of the investigating authority should not be curtailed by protecting the petitioners who have committed non bailable offence.

This Court has given anxious considerations to the arguments of learned counsel for the parties and meticulously examined the case diary produced.

From the materials available on the case diary, it is seen that the statements of the accused have been recorded and they have thoroughly been interrogated. The investigating authority also seized certain materials. The petitioners have also cooperated with the investigation inasmuch as they have submitted certain documents including bank statements, details of sale and purchase of tickets between the informant and the petitioners etc before the investigating officer.

From the materials so far collected by the investigating officer, it is seen that till now the petitioners have cooperated with the investigation.

In the case of **Siddharam Satlingappa Mhetre** (supra), relied on by the learned counsel for the informant, the hon'ble Apex court held that in a case where the accused has joined the investigation and is fully

cooperating with the investigating agency and is not likely to abscond, the custodial interrogation should be avoided and anticipatory bail should be granted.

In the case in hand as discussed herein above, the petitioners have cooperated with the investigating authority. Though the learned counsel for the informant has argued that the petitioners are at flight risk and they may flee from justice, no materials are available on record to suggest such a view.

The judgment relied upon by the learned counsel for the informant in ***Padam Narain Aggarwal*** (supra), in the considered opinion of this court is not applicable in the given facts of the present case, inasmuch as in the said case, the hon'ble Apex court deprecated curtailing the authority of custom officers for exercising its statutory power of arrest under section 104 of the Customs Act, 1962, inasmuch as the high court issued a direction to issue notice to the accused before arrest. Therefore, such propositions of law is not applicable in the given facts of the present case.

This court is of the view that the materials so far collected, the stage of investigation do not warrant any custodial interrogation of the petitioners inasmuch as the petitioners have cooperated with the investigating authority.

Accordingly, the interim order passed on 06.02.2024 is made absolute with the same terms and conditions.

Return the case diary.

JUDGE

Comparing Assistant