

GAHC010035752024



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

Case No. : WP(C)/924/2024

BHAGYASHREE SHARMA
W/O- MR. LAKSHYA JYOTI DAS, R/O- UNIQUE TOWERS, KHANAPARA,
GUWAHATI, P.S. DISPUR, DIST. KAMRUP(M), ASSAM, PIN- 781022.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, HOME AND POLITICAL AFFAIRS
DEPARTMENT, DISPUR, PIN- 781006.

2:THE DIRECTOR GENERAL OF POLICE
ASSAM
ASSAM POLICE HEADQUARTERS
ULUBARI
GHY
DIST. KAMRUP(M)
PIN- 781007.

3:THE COMMISSIONER OF POLICE
KAMRUP(M)
M.G. ROAD
PANBAZAR
GUWAHATI
DIST. KAMRUP(M)
PIN- 781001.

4:THE OFFICER-IN-CHARGE
CRIME BRANCH POLICE STATION
M.G. ROAD
PANBAZAR
GUWAHATI

KAMRUP(M)
PIN- 781001.

5:THE OFFICER-IN-CHARGE
DISPUR POLICE STATION
DISPUR
GUWAHATI
DIST. KAMRUP(M)
ASSAM
PIN- 781006.

6:THE OFFICER-IN-CHARGE
GORCHUK
GUWAHATI
DIST. KAMRUP(M)
PIN- 781035

Advocate for the Petitioner : MR. K N CHOUDHURY

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

15-03-2024

Heard Shri T. Deuri, learned counsel for the petitioner. Also heard Ms. S. Sarma, learned State Counsel for the respondents.

2. The case projected is that the husband of the petitioner, Shri Lakshya Jyoti Das, who was the then Circle Officer of Dispur Revenue Circle was arrested on 01.02.2024 in connection with Dispur PS Case No. 42/2024. It is the case of the petitioner that so far as another police case against the husband was concerned, namely, Crime Branch PS Case No. 8/2023, the husband of the petitioner was already granted interim anticipatory bail on 22.12.2023 and under such situation the subsequent arrest was not in accordance with law.

3. It is the case of the petitioner that her husband was again arrested on 12.02.2024 in connection with Gorchuk Police Station Case No. 375/2023 while he was in custody in connection with the earlier Dispur PS Case No. 42/2024. The relief sought for by means of this petition is extracted herein below:-

“In the premises aforesaid, it is most respectfully prayed that Your Lordship would graciously be pleased to admit this petition, issue a Rule, call for the records and/or may be pleased to issue a writ in the nature of Mandamus directing the respondent authorities to show cause as to why the respondent authorities shall not be directed to disclose about all the other case or cases in which the respondent authorities are planning to arrest the petitioner's husband, Shri. Lakshya Jyoti Das after the petitioner's husband, Shri. Lakshya Jyoti Das is granted bail in connection with Dispur Police Station Case No. 42/2024 or is released from police custody in connection with Gorchuk Police Station Case No. 375/2023 and/or on perusal of records and after hearing the parties may be pleased to make the Rule absolute by directing the respondent authorities to disclose about all the other case or cases in which the respondent authorities are planning to arrest the petitioner's husband, Shri. Lakshya Jyoti Das after the petitioner's husband, Shri. Lakshya Jyoti Das is granted bail in connection with Dispur Police Station Case No. 42/2024 or is released from police custody in connection with Gorchuk Police Station Case No. 375/2023 and/or may further be pleased to pass any other further order or orders or directions as to Your Lordships may deem fit and proper so as to give full and complete relief to the petitioner as prayed for by him.

-AND-

Pending disposal of the Rule, It is respectfully prayed that Your Lordships would graciously be pleased to direct the respondent authorities not to implicate and arrest the petitioner's husband, Shri. Lakshya Jyoti Das in connection with any other case or cases and/or may further be pleased to pass any other further

interim order or orders or directions as to Your Lordships may deem fit and proper.”

4. Shri Deuri, the learned counsel for the petitioner has submitted that her husband is entitled to know the reasons and the basis of any arrest or apprehended arrest. The learned counsel has further clarified that at the time of filing of this petition since the husband was in custody, the same was filed by the present petitioner who is his wife.

5. The learned counsel has also relied upon a judgment of the Hon'ble Supreme Court in the case of ***Uday Chand Vs Sheikh Mohd Abdullah, Chief Minister, J. and K.*** reported in ***1983 (2) SCC 417.***

6. Strenuously opposing the petition, Ms. Sarma, the learned State Counsel however submits that there is no cause of action made out for any intervention by this Court. It is submitted that admittedly the petitioner was arrested on the basis of specific FIRs which were lodged implicating him and presently he is on bail.

7. The rival submissions have been considered.

8. There are in-built provisions in the Cr.PC. including notice under Section 41 A as well as issuance of arrest memo to an accused in case of arrest. There is no averments made in the petition regarding violation of any such provision on the earlier instances of arrest of the husband of the petitioner. The only allegation is that while the husband of the petitioner was on interim anticipatory bail, he was arrested which was in connection with another police case.

9. On a specific query by this Court, Shri Deuri, the learned counsel has

submitted that the petitioner has reasons to apprehend that similar arrest may be made without intimating the basis.

10. After consideration of the submissions and also examining the pleadings, this Court is of the view that the aforesaid apprehension is without any substance or basis. As already indicated, there are in-built provisions in the Code in case of a case being lodged against a person which might lead to an arrest and those provisions are mandatory in nature. So far as the case law relied upon by the learned counsel for the petitioner, this Court is of the opinion that the facts of the said case are wholly different and the same would not be applicable to the present case.

11. In view of the aforesaid discussion, this Court is of the considered view that no case for interference is made out and accordingly the writ petition is dismissed.

JUDGE

Comparing Assistant