

GAHC010062882024



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

Case No. : AB/793/2024

KUMUD DUTTA
S/O LATE KHAGEN DUTTA
R/O S.R.S. ROAD,
KHARGHULI
P.S. LATASIL
DIST. KAMRUP (M), ASSAM
PIN-781004

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. T DEURI

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

10.04.2024

Heard Mr. S.N. Krishnatraya, 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, Kumud Dutta, who has been apprehending arrest in connection with Panbazar P.S. Case No.08/2024, under Section 406/420/468/471 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 Smt. Subhashree Das, on 29.12.2023. The essence of allegation made in the aforesaid FIR is that her father late Jatin Das was the owner of a plot of land measuring 2 katha 9.97 lechas covered by Dag No.152 in K.P. Patta No.352 of village Ramsahil grant under Ulubari Mouza and after the death of her father, she came to know that her brother Arup Jyoti Das's name was mutated in the jamabandi without her and her sister's knowledge. Thereafter, she filed one RTI petition asking the details about the same and after receiving the RTI reply dated 29.07.2023 along with affidavit dated 21.05.2022, she came to know that her brothers, namely, Shri Nabajyoti Das, Shri Ghanashyam Das and Arup Jyoti Das have jointly forged her signature along with the signature of her sisters, namely, Pranita Das and Jonali Das in the affidavit dated 21.05.2022 and notarized the same before one Notary and produced the same before the Circle Officer for getting the mutation in the name of Shri Arup Jyoti Das.

4. Mr. Krishnatraya, learned counsel for the applicant submits that by profession the applicant is an Advocate's clerk and he has nothing to do with the allegation made in the FIR and his only role was that on being approached by one Arup Jyoti Das, Ghanashyam Das and Nabajyoti Das, he had taken them to the Notary Officer and that he is ready to cooperate with the investigating agency and therefore, it is contended to allow this petition. Mr. Krishnatraya also produce some material documents of the wife of the applicant to contend that she is pregnant and the applicant is the only person to look after her.

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 sufficient incriminating materials against the applicant and therefore, Mr. Lahkar has

opposed the petition. However, Mr. Lahkar submits that material part of the investigation is almost over and the I.O. has collected the FSL report also here in this case.

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 order dated 12.03.2024 passed by this Court in Bail Appln. No.675/2024, by which one of the co-accused, namely, Arup Jyoti Das has already been enlarged on bail as well as the order dated 12.03.2024 passed by this Court in AB No.560/2024, by which two of the co-accused, namely, Nabajyoti Das and Ghanashyam Das have already been granted the privilege of pre-arrest bail and in the order dated 12.03.2024 passed in Bail Appln. No.675/2024, this Court was pleased to note that the investigation of the case is almost completed and FSL report is also collected and on that ground the accused, Arup Jyoti Das was granted the privilege of bail.

7. Since, material part of the investigation is almost over, custodial interrogation of the applicant seems to be unwarranted 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, Kumud Dutta, in connection with Panbazar P.S. Case No.08/2024, under Section 406/420/468/471 IPC, he shall be enlarged on pre-arrest bail on his 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 himself 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.

8. In terms of above, this anticipatory bail application stands disposed of.
9. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant