

GAHC010177012025



2026:GAU-AS:601

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

Case No. : I.A.(CrI.)/879/2025

AVINASH BHARTIA
S/O- RAMAWATAR BHARTIA, PERMANENT R/O- FLAT NO-09- A, BLOCK C,
SIGNATURE ESTATES, B.K KAKATI ROAD, ULUBARI, P.O- ULUBARI, P.S-
PALTANBAZAR, GUWAHATI, DIST- KAMRUP (M), ASSAM, PIN-781007

2: PAWAN KUMAR BHARTIA
S/O- RAMAWATAR BHARTIA
PERMANENT R/O- FLAT NO-09- A
BLOCK C
SIGNATURE ESTATES
B.K KAKATI ROAD
ULUBARI
P.O- ULUBARI
P.S- PALTANBAZAR
GUWAHATI
DIST- KAMRUP (M)
ASSAM
PIN-78100

VERSUS

THE UNION OF INDIA
REP, BY THE PP, CBI

Advocate for the Petitioner : MR. D SAIKIA, MS. RUKMINI BARUA, MR P TALUKDAR, MS.
PADMINI BARUA, MR W R MEDHI

Advocate for the Respondent : SC, CBI,

:: BEFORE ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

O R D E R

20.01.2026

Heard Mr. D. Saikia, the learned senior counsel assisted by Mr. K. Gogoi, the learned counsel appearing for the applicants. Also heard Ms. M. Kumari, the learned Standing Counsel, CBI.

2. This is an application praying for modification of one of the conditions of the bail order dated 19.09.2023 passed by this Court in Bail Application No.3209/2023.

3. These two petitioners were granted pre-arrest bail by this Court with some conditions. One of the conditions was that the petitioners have to deposit their passports before the Special Judge, CBI.

4. After passing of the said order, both the petitioners had travelled to different foreign countries with the permission of the Special Judge, CBI. Every time, they returned from their foreign tours they used to deposit the passports in the court of the Special Judge, CBI.

5. The petitioners have submitted that one of the wives of the petitioners have been taken medical treatment at Singapore. The children of the petitioners are studying abroad. The petitioners regularly visit their children in the foreign countries. On each of the occasions the petitioners had to apply to the Special Judge, CBI for taking permission to travel abroad. According to the petitioners, this aspect caused immense hardship to them. Therefore, they prayed for modification of the said condition.

6. The learned counsel for the CBI submits that the court cannot change its own order according to Section 362 of the CrPC. This is the only ground taken by the CBI

while objection to the prayer made by the petitioners.

7. Terming the submission to be incorrect, Mr. Saikia has relied upon a decision of the Hon'ble Supreme Court that was delivered in *Ramadhar Sahu v. State of Madhya Pradesh*. Paragraph 5 of the said judgment is quoted as under:

“5. An order for refusal of bail however, inherently carries certain characteristics of an interlocutory order in that certain variation or alteration in the context in which a bail plea is dismissed confers on the detained accused right to file a fresh application for bail on certain changed circumstances. Thus, an order rejecting prayer for bail does not disempower the Court from considering such plea afresh if there is any alteration of the circumstances. Conditions of bail could also be varied if a case is made out for such variation based on that factor. Prohibition contemplated in Section 362 of the Code would not apply in such cases. Hence, we do not think the reasoning on which the impugned order was passed rejecting the appellant's application of bail can be sustained. The impugned order is set aside and the matter is remitted to the High Court. The bail petition of the appellant before the High Court shall revive to be examined afresh by the High Court in the light of our observations made in this order.”

8. Mr. Saikia has submitted that bail orders are always interlocutory orders. According to Mr. Saikia a bail can always be modified and changed and therefore, Section 362 of the CrPC does not apply in bail matters.

9. Mr. D. Saikia, the learned counsel for the petitioners has relied upon another judgment of the Supreme Court that was delivered in *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248 to buttress his argument, paragraph 193 of the said judgment is quoted as under:

“**193.** It seems to me that there can be little doubt that the right to travel and to go outside the country, which orders regulating issue, suspension or impounding, and cancellation of passports directly affect, must be included in rights to “personal liberty” on the strength of decisions of this Court giving a very wide ambit to the right to personal liberty (see : *Satwant Singh Sawhney v. D. Ramarathnam, Assistant Passport Officer, Government of India, New Delhi* [AIR 1967 SC 1836 : (1967) 3 SCR 525 : (1968) 1 SCJ 178] ; *Kharak Singh v. State of V.P.* [AIR 1963 SC 1295 : (1964) 1 SCR 332 : (1963) 2 Cri LJ 329]).”

10. Mr. Saikia has further submitted that right to travel and to go outside the country is a person's personal liberty guaranteed by the Constitution of our country.

11. I have considered the submissions made by the learned counsel of both sides.

12. I have found that after passing of the bail order, the petitioners have travelled abroad many times. On each of those occasions, they took permission from the court of Special Judge, CBI and after their return, they used to deposit their passports. The petitioners never tried to run away from this country. Mr. Saikia has submitted that the petitioners are Indian citizens and they have their permanent residences in the State of Assam. Mr. Saikia has submitted that the petitioners are running their business in the entire North Eastern Region.

13. After considering the submissions made by the learned counsel of both sides, I have decided to agree with Mr. Saikia. The said condition of the bail order dated 19.09.2023 needs to be modified.

14. Accordingly, it is hereby directed that the petitioners need not deposit their passports in the court of the Special Judge, CBI. If the passports are still lying in the court of the Special Judge, CBI, the same shall be returned to the petitioners. The other conditions of the said bail order shall continue to be in force.

With the aforesaid direction, this Interlocutory Application (Crl.) is disposed of.

JUDGE

Comparing Assistant