

GAHC040004172023



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

Case No. : AB 12/2023

1:Manoj kumar Bora
Son of Late Koshwar Bora,
Residents of Vill Kalyanpur, Ward No 11, PO/PS Biswanath Chariali, District
Biswanath, Assam.

VERSUS

1:THE STATE OF AP
Through P P (AP)

Advocate for the Petitioner : 1 Z Alam

Advocate for the Respondent : P P of AP

**BEFORE
HONBLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 19-04-2023

Heard Mr. Z. Alam, learned counsel for the applicant. Also heard Ms. T. Jini, learned Additional Public Prosecutor for the State respondent.

This is an application filed under Section 438 of the Code of Criminal Procedure, 1973, praying for grant of pre-arrest bail the accused/petitioner, who is apprehending arrest in connection with Mariyang Police Station Case No.16/22, registered under Sections 379/420/120B/427/34 of the Indian Penal Code.

Case Diary has been received and I have perused the same.

It is submitted by the learned counsel for the applicant, Mr. Z. Alam, that the present accused applicant is not at all involved in the alleged offence as stated in the FIR. But, subsequently, accused/petitioner was served with notice under Section 41 A Cr.P.C. and hence, there is an apprehension of arrest and accordingly filed the present anticipatory bail application. He also submitted that in a similar case being A.B.No.3239/2019, the prayer for bail was allowed with certain conditions by this Court. In the present case the accused/petitioner has already appeared before the IO and recorded his statement and he is still ready and willing to co-operate with the I.O. in the further investigation of the case, if he is granted with the privilege of pre-arrest bail.

On the other hand, Ms. T. Jini, learned Additional Public Prosecutor, submits that from the Case Diary, it is seen that one Karken Ngomdir approached the present accused/petitioner for selling an Excavator due to some financial constraints and executing an agreement, the present petitioner had purchased the same. She also submitted that the present accused/petitioner has already appeared before the IO and recorded his statement. But, recently a notice was issued upon the accused petitioner under Section 41-A Cr.P.C. only for re-examination. Further, she also submitted that as the accused/petitioner is co-operating with the investigation of the same, the prosecution has no objection in the prayer made by the applicant.

So, considering the submissions of learned counsels for both sides and also considering the materials placed on record, I find it a fit case to grant the privilege of pre-arrest bail to the accused/petitioner.

Accordingly, it is provided that in the event of arrest of the accused/petitioner, namely, Manoj Kumar Bora, in connection with Mariyang Police Station Case No.16/22, registered under Sections 379/420/120B/427/34 of the Indian Penal Code, he shall be enlarged on pre-arrest bail on his executing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the arresting authority, subject to the following conditions:

- (i) that the petitioner shall appear before the Investigating Officer of the case within a period of 10 (ten) days from today;

- (ii) that the petitioner shall fully co-operate with the investigation of the case and shall appear before the Investigating Officer as and when required in connection with the investigation of the aforesaid P.S. Case; and
- (iii) that the petitioner 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.

In terms of above, this anticipatory bail stands dispose of.

JUDGE

Comparing Assistant