

GAHC040004222023



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

Case No. : AB 13/2023

1:Tadak Esso
Son of Late Tade Esso,
Permanent Resident of Village Esso, PO/PS Taliha, District Upper Subansiri

VERSUS

1:THE STATE OF AP
Represented by Public Prosecutor.

Advocate for the Petitioner : Uttam Deka, C Modi, A Saring, Bomyom Ori, Maji Dui, Gyati Nehal, Nabam Chatum, Tame Rimi, N Tania, K Gara, M Tunar.

Advocate for the Respondent : P P of AP

BEFORE
HONBLE MR. JUSTICE NANI TAGIA

ORDER

Date : 04-04-2023

Heard Mr. C. Modi, learned counsel for the applicant. Also heard Ms. T. Jini, learned Additional Public Prosecutor for the State of Arunachal Pradesh.

2. This is an application filed under Section 438 Cr.P.C., praying for grant of pre-arrest bail to the applicant, namely, Shri Tadak Esso, in connection with Daporijo Police Station Case No. 08/2023, registered under Section 3 of

the Prevention of Damage to Public Property Act, 1984.

3. The aforesaid Daporijo Police Station Case No. 08/2023 was registered on the basis of an F.I.R. dated 21.03.2023, lodged by one Bucha Riamuk, Sub-Divisional Agriculture Officer, Camp : Daporijo, to the Officer-in-charge, Police Station, Daporijo, District Upper Subansiri, Arunachal Pradesh, alleging that Government Quarter No. SPT/T-III/2 at Industry Colony, Daporijo, which was allotted to him vide Government Order No. DAW-02/2022-2023, dated 17.03.2023 has been dismantled at the night of 20.03.2023 by one Shri Tadak Eso, SSA Teacher (the applicant herein), presently residing adjacent to the said quarter.

4. This Court by an order dated 28.03.2023, while calling for the Case Diary of the Daporijo Police Station Case No. 08/2023, had granted the petitioner privilege of interim pre-arrest bail in connection with the aforesaid case.

5. Pursuant to the order dated 28.03.2023, Ms. T. Jini, learned Additional Public Prosecutor has produced the Case Dairy.

6. From the Case Diary, it appears that pursuant to the order dated 28.03.2023, passed by this Court, the petitioner had appeared before the Investigating Officer and his statement was recorded by the Investigating Officer. A perusal of the statement recorded of the petitioner, by the Investigating Officer under Section 161 Cr.P.C., it transpires that on 19.03.2023, the complainant has visited the quarter to inspect and when the petitioner saw the complainant visiting the quarter, he had asked the complainant not to occupy the quarter as he is intending the occupy it. The quarter in question, namely, Quarter No. SPT/T-III/2 at Industry Colony,

Daporijo, is a quarter allotted to the complainant, namely, Bucha Riamuk.

7. Under the facts and circumstance, the petitioner could not have asked the complainant not to occupy the said quarter to enable him to occupy the same. Under the facts and circumstance of the case that the petitioner contends that on the date of the alleged occurrence, i.e., 20.03.2023, the petitioner was in Itanagar, the possibility of the involvement of the petitioner in damaging the Quarter No. SPT/T-III/2 at Industry Colony, Daporijo, cannot be ruled out at this stage, as the petitioner had intention to occupy the said quarter for which he had also asked the complainant, who was duly allotted with the quarter not to occupy the said quarter.

8. Under the aforesaid circumstance, I am of the view that this is not a fit case for grant of pre-arrest bail to the petitioner in connection with Daporijo Police Station Case No. 08/2023, registered under Section 3 of the Prevention of Damage to Public Property Act, 1984.

9. The bail petition, accordingly, stands rejected.

10. The interim pre-arrest bail granted to the applicant, in connection with Daporijo Police Station Case No. 08/2023, registered under Section 3 of the Prevention of Damage to Public Property Act, 1984, vide order dated 28.03.2023, is hereby recalled.

11. Return the Case Diary.

JUDGE

Comparing Assistant