

GAHC040004692023



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

Case No. : AB 15/2023

1:Sengwaan Umbon Singpho
Son of Sri Aseng Nong Singpho,
A Permanent Resident of Village Giding (Bordumsa I), PO/PS Bordumsa, Changlang
District, Arunachal Pradesh.

VERSUS

1:THE STATE OF AP
Represented by its Public Prosecutor.

Advocate for the Petitioner : G Taloh

Advocate for the Respondent : P P of AP

BEFORE
HONBLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 18-04-2023

Heard Mr. G. Taloh, learned counsel for the petitioner. Also heard Mr. T. Ete, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 438 of the Code of Criminal

Procedure, 1973, praying for grant of pre-arrest bail to the accused/petitioner, who is apprehending arrest in connection with Bordumsa P.S. Case No. 02/2023, under Section 379 of the Indian Penal Code *read with* Sections 21(1)(2)(3)(4) (4A) of MMDR Act 1957.

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

It is submitted by the learned counsel for the petitioner, Mr. G. Taloh, that this is the subsequent anticipatory bail application filed on behalf of the present accused/petitioner after rejection of the earlier anticipatory bail application by the learned Special Judge (MMDR Act), Khonsa, Tirap District, Arunachal Pradesh. The learned counsel for the petitioner further submitted that the accused/petitioner, after obtaining the interim pre-arrest bail from the learned Special Judge (MMDR Act), Khonsa, Tirap District, Arunachal Pradesh, vide order dated 21.03.2023, had appeared before the I.O. and gave his statement under Section 161 Cr.P.C. However, after perusal of the Case Diary, his pre-arrest bail prayer was rejected by the learned Special Judge (MMDR Act), Khonsa, Tirap District, Arunachal Pradesh, vide its order dated 30.03.2023. It is further submitted by the learned counsel for the petitioner that Section 22 MMDR Act bars the Court from taking cognizance from the offence under Section 21 MMDR Act and the complaint has to be made before the authority concerned if any offence is committed under the said Act. However, the case is also registered under Section 379 of the Indian Penal Code and the petitioner has already co-operated with the I.O. and gave his statement and he is still ready to co-operate with the I.O. in further investigation of the case if he is granted with the privilege of pre-arrest bail.

In this context, the learned Additional Public Prosecutor, Mr. T. Ete, has submitted that the accused has already co-operated with the I.O. in the investigation of this case and hence, his custodial interrogation may not be necessary here in this case and with strict direction, his pre-arrest bail prayer may be considered.

After hearing the submissions made by the learned counsels for both sides, I have perused the Case Diary and it reveals that after obtaining the interim pre-arrest bail from the learned Special Judge (MMDR Act), Khonsa, Tirap District, Arunachal Pradesh, the accused has already appeared before the I.O. and gave his statement under Section 161 Cr.P.C. Further, from the materials in the Case Diary, it reveals that there are some incriminating materials against the accused/petitioner showing his involvement in the alleged offence. However, I find that custodial interrogation of the present accused/petitioner is not necessary in this case and therefore, I find it a fit case to extend 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, Shri Sengwaan Umbon Singpho, in connection with Bordumsa P.S. Case No. 02/2023, under Section 379 of the Indian Penal Code *read with* Sections 21(1)(2)(3) (4)(4A) of MMDR Act 1957, 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 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
- (ii) 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.

The anticipatory bail application stands disposed of in terms above.

The Case Diary be sent back.

JUDGE

Comparing Assistant