



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

Case No. : AB/74/2023

Jehirul Islam @ Jahirul
Son of S/o Md. Hasen Ali, General, r/o Village Harigaon, P.O Nikamul, P.S Tezpur,
District, Sonitpur, Assam, Phone No. 786925320

VERSUS

THE STATE OF AP
represented by learned P.P Govt of A.P

Advocate for the Petitioner : S K Singh

Advocate for the Respondent : P P of AP

BEFORE
HONBLE MR. JUSTICE KARDAK ETE

ORDER

Date : 16.11.2023

Heard Mr. S. K. Singh, learned senior counsel for the accused/applicant.

Also heard Ms. L. Hage, learned Addl. Public Prosecutor for the State.

This is an application, under Section 438 of the Cr.P.C., 1973, praying for grant of privilege of pre-arrest bail to the accused/applicant, namely, Shri Jehirul Islam, who apprehends arrest in connection with Bomdila P.S. Case No. 12/2023,

under Sections 420/379 of the IPC.

The aforesaid Bomdila P.S. Case No. 12/2023, under Sections 420/379 of the IPC was registered on the basis of an FIR, lodged by one Shri Tenzin Norbu Deru, the proprietor of M/s TD Enterprise on 23.09.2023 before the Officer In-Charge, Police Station, Bomdila, alleging that the informant had engaged the accused/applicant for the completion of works connected with painting, false ceiling, installation and fixing of aluminium doors and windows of the District Hospital Building. The informant further alleged that the accused/applicant during the course of his employment in collusion with one Shri Rajen Das has cheated an amount of Rs. 550,690/-(Five lakhs fifty thousand six hundred ninety rupees) by deceitful means from the informant and forged the invoice documents. He further alleged that the accused/applicant has stolen away some valuable articles from the construction site i.e. the District Hospital, Bomdila.

It is noticed that a notice under Section 41 A of the Cr.P.C., was served to the accused/applicant to appear before the Investigating Officer on 25.09.2023, but, due to certain difficulties the applicant had responded back to the investigating authority.

Mr. S. K. Singh, learned senior counsel submits that the dispute is purely civil in nature and having no criminality on the part of the accused/applicant. Thus, prays for grant of pre-arrest bail to the applicant.

Ms. L. Hage, learned Addl. P.P. submits that the accused/applicant was served with a notice under Section 41A of the Cr.P.C., through his mother, however, he did not appear and is not cooperating with the police rather he is absconding. Since the accused/applicant is absconding and not cooperating with the police, the prayer of the applicant for granting pre-arrest bail may be rejected at this stage.

Having considered the submissions of the learned counsels appearing for the

parties and on careful perusal of the Case Diary, this Court is of the considered view that if at all; the dispute appears to be of civil nature as the same relates to business transactions and recovery of money. Thus, this Court deems it fit to admit to the privilege of pre-arrest bail to the accused/applicant.

Accordingly, in the event of arrest of the accused/applicant in connection with Bomdila P.S. Case No. 12/2023, under Sections 420/379 of the IPC, he shall be released on bail on his executing a bail bond of Rs. 50,000/-(Rupees Fifty thousand) with one surety of like amount, to the satisfaction of the arresting authority.

The above privilege is however, subject to following conditions:

- (i) that the applicant shall make himself available before the Investigating Officer within 10 days from today.
- (ii) that the applicant shall not tamper with the evidence; and
- (iii) that the accused/applicant shall appear before the investigating authority once in a fortnight till the completion of the investigation.
- (iv) In the event of failure to abide by any of the conditions above, this order of bail shall stand automatically cancelled.

The anticipatory bail application stand disposed of in terms above.

JUDGE

Comparing Assistant