

GAHC010002172023



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

Case No. : AB/39/2023

BISHWANATH SHARMA
S/O LATE MOINA SHARMA, R/O HOUSE NO. 09, SHANKAR NAGAR, LAL
GANESH, HILL VIEW ROAD, P.S.-DISPUR, DIST-KAMRUP (M), P/R/O VILL-
ASOI, DIST-VAISHALI, STATE-BIHAR

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. S BORTHAKUR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 14.02.2023

Heard Mr. S. Borthakur, learned counsel for the petitioner.

Also heard Mr. K.K. Das, learned Additional Public Prosecutor for the State of Assam.

By this application under section 438 Cr.P.C., the petitioner Page namely,

Biswanath Sharma, is praying for pre-arrest bail, as he is apprehending arrest in connection with Noonmati P.S. Case No. 452/2022, under section 379 of I.P.C.

It is submitted by the learned counsel for the petitioner that he is no way involved in the alleged offence and it is a fact the he was the owner of scrap shop but during the relevant period of time he was busy with the treatment and nursing of his wife who was seriously ill. During his absence, his son was looking after his scrap business and he was also arrested in this case.

He is not aware about any dismantling of the stolen bus in his scrap shop nor he is involved any way in the alleged offence.

He has already appeared before the IO and gave his statement under Section 161 CrPC.

He is further ready and willing to co-operate with the IO in further investigation of this case, if he is granted with the privilege of pre-arrest bail.

The learned APP Mr. K. K. Das, submitted that the son of the petitioner was directly involved in the alleged offence who made some contact with middle man while dismantling the bus in his scrap shop. But involvement of the petitioner is not mentioned in the case diary so far the material collected by the IO.

Apart from that, the accused petitioner has already appeared before the IO and his statement has already been recorded under section 161 CrPC.

After considering the submission of both sides and also considering materials available in the case diary, I find that the custodial interrogation is not necessary in this case and hence, I find it is a fit case to extend the privilege of pre-arrest bail to the accused petitioner. The interim pre-arrest bail granted to the present accused petitioner dated 06.01.2023 is hereby made absolute, on the following terms and conditions:

1. The petitioner shall make himself available to the police or any other investigating agency or Court in the present case as and when required.
2. 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 Court or to any police officer or tamper with the evidence. He shall not, in any manner, try to overawe or influence or intimidate the prosecution witness.
3. The petitioner shall not obstruct the smooth progress of the investigation/trial.
4. The petitioner shall not misuse his liberty in any manner.

The case diary is returned.

The anticipatory bail application stands disposed of.

JUDGE

Comparing Assistant