

GAHC010003662023



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

Case No. : AB/100/2023

PAPU KONWAR
S/O NABA KANTA KONWAR
VILL- NO. 43 JAGALANI GRANT
P.S. DIBRUGARH
DIST. DIBRUGARH, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. P K GOGOI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 25-01-2023

Heard Mr. P.K. Gogoi, learned counsel for the petitioner and Mr. B. Sharma, learned Additional Public Prosecutor for the respondent State of Assam.

2. By this application under Section 438, Code of Criminal Procedure, 1973 [CrPC], the

petitioner viz. Sri Papu Konwar has approached this Court seeking the benefit of pre-arrest bail, apprehending his arrest, in connection with Moran Police Station Case No. 65/2022, registered for offences punishable under Sections 341/342/419/379, Indian Penal Code [IPC] with added Section 384/392, IPC.

3. Mr. Gogoi, learned counsel for the petitioner has submitted that the petitioner has not been named in the First Information Report [FIR] and the petitioner cannot be implicated in respect of the incident which had allegedly occurred on 07.06.2022 as he was only driving the vehicle [Hyundai Venue] at the instruction of its owner. On perusal of the averments made in the application, it is found that the petitioner has not disclosed the name of the owner.

4. From the First Information Report [FIR] lodged on 07.06.2022 as well as the materials in the case diary, collected during the course of investigation, it has emerged that on 07.06.2022, two persons viz. Dhurbajyoti Borah and Ananda Borah were taking one tractor to Lahowal. When they were so proceeding, they were waylaid by a team of three persons who were inside a vehicle [Hyundai Venue] near Lengeri. Identifying themselves as personnel from CID, the accused persons threatened the two i.e. Dhurbajyoti Borah and Ananda Borah of taking them to the police station. In the process, they snatched away the purses from them. Thereafter, by taking Dhurbajyoti Borah and Ananda Borah inside the vehicle [Hyundai Venue], they were taken to a different place. At one point of time, Ananda Borah was made to get out of the vehicle. Meanwhile, the tractor was taken away by one of the accused person viz. Nabajyoti Gogoi who kept the tractor in the premises of one of his neighbours viz. Sri Latumoni Gogoi. The neighbour in his statement recorded under Section 164, CrPC has implicated the accused person viz. Nabajyoti Gogoi of keeping the stolen tractor inside his premises. The accused person, Nabajyoti Gogoi has been arrested and the said accused person, in his statement, has implicated the petitioner by indicating the role played by the petitioner in committing the crime on the date of occurrence, 07.06.2022. It is submitted on behalf of the petitioner that the informant had borrowed Rs. 50,000/- from Nabajyoti Gogoi as mortgage for power filler. The materials in the case diary goes to indicate that the petitioner was involved in the act of taking away the tractor from the possession of the two persons named in the FIR.

5. Having regard to such incriminating materials against the petitioner in the case

diary, I find this case is not a fit one to extend the benefit of pre-arrest bail under Section 438, CrPC to the petitioner.

6. Accordingly, the prayer for pre-arrest bail of the petitioner stands rejected.

Send back the Case Diary.

JUDGE

Comparing Assistant