

GAHC010007192023



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

Case No. : AB/99/2023

ALI AKBAR
S/O LATE AKAT ALI
R/O CHAKALAPARA, SONIADI
P.S. HAJO
DIST. KAMRUP, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR S HOQUE

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 14.02.2023

Heard Mr. S. Hoque, learned counsel for the petitioner. Also heard Ms. N. Das, learned Additional Public Prosecutor for the State of Assam.

Apprehending arrest in connection with Bharalumukh P.S. Case No. 363/2022, under section 379 of IPC, this application under section 438 Cr.P.C.,

has been preferred by the accused petitioner namely, Sri Ali Akbar, for granting pre-arrest bail.

The case diary is received and perused the same.

It is submitted by the learned counsel for the petitioner that he is innocent and no way involved in the alleged offence. It is a fact that he has scrap business and he used to receive some waste materials as well as some scrap items, but he never received any stolen good knowingly in his scrap shop.

His statement is also recorded by the IO and he is still willing to extend his co-operation in further investigation of this case if he is granted the privilege of pre-arrest bail.

In this regard, the learned Additional PP Ms. N. Das has submitted that there is sufficient incriminating materials against the present accused petitioner in the case diary.

As per the note of the IO, his co-operation is also not satisfactory and he is not co-operative. More so, from the case diary as well as the bail objection it reveals that he used to receive the stolen articles in his dump and dismantling the articles and he used to do this business and apart from that he is also involved in supply of the stolen vehicles in various neighboring state of Assam.

Further from the case diary, and also from the bail objection of the IO and it reveals that the Executive Magistrate had to seal his scrap shop after getting the information about his illegal business.

Accordingly, Ms. N. Das, learned Additional PP raised objection in granting the pre-arrest bail to the present petitioner.

After hearing the submission of the learned counsel for both sides, I have perused the case diary and it reveals that IO has collected the sufficient incriminating materials against the accused-petitioner.

However, it reveals that his statement is recorded by the IO under Section 161 CrPC, but from the bail objection and available materials in the case diary it reveals that the present accused-petitioner is alleged to have committed offence and is also involved in some illegal business and used to receive stolen property secretly for which his dump had to be sealed by the Executive Magistrate. He is also alleged to have involved with the business of supply of stolen vehicle.

Further, considering the bail objection from the IO as well as the nature of the offence, I find that the custodial interrogation of the present accused-petitioner will be required for the interest of just and proper investigation of the case.

In view of the above, the prayer for pre-arrest bail for the present accused-petitioner stands rejected and the order of interim pre-arrest bail dated 10.01.2023 stands vacated.

The case diary is returned.

JUDGE

Comparing Assistant