

GAHC010007642023



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

Case No. : AB/109/2023

BIJAY GUPTA
S/O LATE NATHO PRASAD GUPTA,
R/O HOUSE NO. 1, KAMAKHYA PATH, JYOTIKUCHI DHOPOLIA, RAJIV
GANDHI ROAD,
P.S.- GORCHUK,
GUWAHATI- 781011, DIST.- KAMRUP (METRO), ASSAM.

VERSUS

THE STATE OF ASSAM
REP. BY P.P., ASSAM.

Advocate for the Petitioner : MR. A CHAUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 03.02.2023

Heard Mr. B.K. Mahajan, learned counsel appearing for the petitioner and Mr. R.R. Kaushik, learned Additional Public Prosecutor appearing for the State. This is an application made under **Section 438 Cr.P.C.**, seeking pre-arrest bail by

the petitioner, namely, **Bijay Gupta**, apprehending arrest in connection with **Gorchuk Police Station Case No. 358/2022**, registered under **Sections 420/379/411/427/34 of the IPC**.

Mr. Mahajan, learned counsel for the petitioner has submitted that as per FIR, one Durje Narzary had stolen the vehicle of the informant and sold the same in a scrap yard. The pre-arrest bail was granted to said Durje Narzary. The allegation against the present petitioner is that the stolen vehicle was sold to the scrap yard of the petitioner. But the petitioner being a bonafide purchaser of scrap materials, he cannot be held to be liable for commission of offence under Section 411 of IPC. Hence, the privilege of pre-arrest bail be granted to the petitioner.

Mr. Kaushik, learned Additional Public Prosecutor for the state has made no objection on the prayer of the petitioner.

The case diary produced has been perused. It is true that some parts of the stolen vehicle were recovered from the scrap yard and the pieces of body of the said vehicle showing the name of 'Barbie' were recovered from the scrap yard of the present petitioner. It appears that the petitioner is the bonafide purchaser of the scrap materials from other persons. Under such circumstances, it cannot be ascertained that those are the parts of the stolen vehicle of the informant and by knowing the fact of the parts of stolen vehicle, he kept those articles in his scrap yard.

In view of above, it is provided that in the event of his arrest in connection with the aforesaid case, the petitioner, namely Bijay Gupta, shall be released on pre-arrest bail on executing a bond of Rs.10,000/- with one surety of like amount to the satisfaction of the arresting authority. The above privilege is, however, subject to the following conditions:

- (i) The petitioner is directed to appear before the investigating officer within a period of 10(ten) days from today.
- (ii) That the petitioner shall make himself available for interrogation by the investigating officer as and when required;
- (iii) 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 her from disclosing such facts to the court or to any police officer.

With the aforesaid observations and directions, the present application stands disposed of.

Send back the case diary.

JUDGE

Comparing Assistant