

GAHC010008152023



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

Case No. : AB/121/2023

AMINUR RAHMAN @ ABDUL BAREK RAHMAN
S/O SABAJ UDDIN
R/O VILL- ROWMARI
P.O. MAJGAON
P.S. BARPETA,
DSIT. BARPETA, ASSAMPIN-781313

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M HUSSAIN

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

Date : 16-02-2023

Heard Mr. A. Z. Ahmed, learned counsel for the applicant. Also heard N. Das, learned Additional Public Prosecutor representing the State respondent.

This application is filed under Section 438 of the Code of Criminal Procedure, 1973, praying for grant of pre-arrest bail to the accused/applicant in connection with Mushalpur P. S. Case No.114/2022, registered under Sections 120(B) /406 /420/468/ 471 /379/411 of the Indian penal Code.

Case Dairy received and I have perused the same.

It is submitted by the learned counsel for the applicant, Mr. A. Z. Ahmed, that the applicant is a genuine purchaser of JCB and the same has been purchased by him from One Sri Karma Dorjee (original owner), and in this regard he has submitted one Letter of Undertaking annex at Annexure-6; apart from that he has also submitted No Objection Certificate, which was issued by the Royal Government of Bhutan, Ministry of Information & Communications, Road Safety & Transport Authority, Regional Office. After purchasing the vehicle he made a Deed of Agreement dated 05.11.2022, for Sale of the Vehicle to the accused No. 2 and sold the vehicle to him.

Mr. A. Z. Ahmed, learned counsel for the applicant also prayed for grant of the privilege of pre-arrest bail and also states that he will co-operate with the investigating agency, as and when required, if, the interim pre-arrest bail is

granted to him.

In this context, Ms. N. Das, learned Additional Public Prosecutor submits that from the statement of the co-accused namely Rahim Ali reveals that he had purchased the vehicle from the present accused/applicant by entering into an agreement. Though, it is suspected that the vehicle might be stolen. Further, from the forwarding report of other co-accused, it reveals that the vehicle was brought from Bhutan, Drukjam-Sel Construction Company Pvt. Ltd. and the vehicle was used for the commercial purpose without having a number plate.

After hearing the submissions made by the learned Advocates of both sides and also considering the nature and gravity of the offence, I find that the custodial interrogation may not be required herein this case and I find it appropriate to grant the privilege of pre-arrest bail to the applicant, namely Aminur Rahman @ Abdul Barek Rahman.

Accordingly, it is provided that in the event of arrest of the accused/applicant, namely, Aminur Rahman @ Abdul Barek Rahman, in connection with Mushalpur P. S. Case No.114/2022, registered under Sections 120(B) /406 /420/468/ 471 /379/411 of the Indian penal Code, he shall be enlarged on pre-arrest bail on his executing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the arresting authority, subject to the following conditions:

- (i) that the applicant shall make himself available for interrogation by the Investigating Officer as and when required;
- (ii) that the applicant 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 the Court or to any police officer; and

(iii) that the applicant shall not leave the jurisdiction of the concerned jurisdictional Magistrate, without prior permission.

Further, considering the nature of allegation, the IO is at liberty to approach the Court with a prayer for cancellation of bail, if the accused/applicant jumps over or violate any of the bail conditions.

In terms of above, this anticipatory bail application stands disposed off.

Case Diary be return.

JUDGE

Comparing Assistant