

GAHC010022372023



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

Case No. : AB/311/2023

GANESH CH. ROY
S/O- LATE NISHI KANTA ROY, R/O- VILL.- KEDAR PART-III, P.S.
GOLAKGANJ, DIST. DHUBRI, ASSAM

VERSUS

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

Advocate for the Petitioner : MR. A RAHMAN

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 28-03-2023

Heard Mr. A. Rahman, learned counsel for the petitioner. Also heard Mr. K. K. Parasar, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 438 of the Code of Criminal Procedure, 1973, for grant of pre-arrest bail to the accused/petitioner, who are apprehending arrest in connection with Golakganj P.S. Case No. 10/2023, registered under Section 420/406 of the Indian Penal Code.

Case Diary has been received and I have perused the same.

It is submitted by the learned counsel for the petitioner, Mr. A. Rahman that this dispute is purely civil in nature and the allegation made against the present accused/petitioner is that he had not paid the entire amount as per the agreement for purchasing a Tractor. It is also submitted that the accused/petitioner has already appeared before the IO, and his statement under Section 161 Cr.P.C., is recorded and he is still ready to co-operate with the same. Further, the petitioner prays for making the interim bail as absolute and if the same is made absolute, there are no chances of absconding or hampering or tempering of this case.

In this context, Mr. K. K. Parasar, learned Additional Public Prosecutor has submitted that the accused/petitioner has already appeared before the IO and

also recorded his statement. From the perusal of the case diary, it is seen that he is the registered owner of the said vehicle, and only the dispute between the parties is for non-payment of the agreed amount. The petitioner is co-operating with the IO in the investigation of this case, and accordingly raised no objections in the prayer made by the petitioner.

After hearing the submissions of learned counsels for both sides and also considering the materials available in the Case Diary, as well as considering the fact that the accused/petitioner had appeared before the IO and co-operated with the investigation of this case, thus, I find that further custodial interrogation may not be necessary here in this instant case. Hence, I find it appropriate to extend the privilege of pre-arrest bail to the petitioner, namely, Ganesh Ch. Roy. Thus, the interim order passed by this Court dated 06.02.2023, in connection with Golakganj P.S. Case No. 10/2023, registered under Section 420/406 of the Indian Penal Code is hereby made absolute 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.

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

The Case Diary be sent back.

JUDGE

Comparing Assistant