

GAHC010032652023



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

Case No. : AB/486/2023

NUR HUSSAIN SHEIKH @ HASAN ALI
S/O ANCHAR SHEIKH @ MOLLAH
VILL- CHOTOGUMA
P.S. GOLAKGANJ
DIST. DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A T SARKAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 16.03.2023

Heard Mr. A. T. Sarkar, learned counsel for the petitioner. Also heard Mr. K. K. Das, 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 is apprehending arrest in connection with Golakganj P.S. Case No. 1497/2019 (corresponding to G.R. No. 6741/2019), under Sections 379/34 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. T. Sarkar, that the accused/petitioner is innocent and no way involved in the alleged offence. He is a driver by profession and his vehicle was hired by the accused Nos. 1 & 3 and in the evening, a quarrel was took place between the informant and the accused Nos. 1 & 3 for some cow in question and subsequently the F.I.R. was lodged. However, from the F.I.R., it reveals that the matter was amicably settled between the parties and hence, there was a delay in lodging the F.I.R. Further it is submitted that this is a case of the year 2019 and therefore, at this stage, the custodial interrogation of the present accused/petitioner is not necessary. Further, the accused/ petitioner is ready and willing to co-operate with the I.O. in further investigation of this case if he is granted with the privilege of pre-arrest bail.

In this context, the learned Additional Public Prosecutor, Mr. K. K. Das, has submitted that though there is a list of 7 (seven) numbers of accused persons in the F.I.R., but till date only 2 (two) persons have been arrested and statement of only one co-accused is available in the Case Diary and the other named

accused persons are still absconding. Apart from that, there is no note of the I.O. in regards to the stolen cows. However, it is submitted by the learned Additional Public Prosecutor that considering the statement made in the F.I.R. regarding compromise, the bail prayer of the present accused/petitioner may be considered.

After hearing the submissions of learned counsels for both sides and also considering the materials available in the Case Diary as well as the statement made in the F.I.R., I find that custodial interrogation of the present accused/petitioner is not necessary in this case and therefore, I find it a fit case to extend the privilege of pre-arrest bail to the accused/applicant.

Accordingly, it is provided that in the event of arrest of the accused/petitioner, namely, Nur Hussain Sheikh @ Hasan Ali, in connection with Golakganj P.S. Case No. 1497/2019 (corresponding to G.R. No. 6741/2019), under Sections 379/34 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 petitioner shall appear before the Investigating Officer of the case within a period of 1 (one) week from today;
- (ii) that the petitioner shall fully co-operate with the investigation of the case and shall appear before the

Investigating Officer as and when required in connection with the investigation of the aforesaid P.S. Case; and

- (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 him from disclosing such facts to the Court or to any police officer.

The anticipatory bail application stands disposed of in terms above.

The Case Diary be sent back.

JUDGE

Comparing Assistant