

GAHC010033972023



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

Case No. : AB/525/2023

ABDUL SALAM
S/O YUSUB ALI
R/O VILL- SORIOHBARI
P.S. NORTH LAKHIMPUR
DIST. LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR M HOQUE

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 15.03.2023

Heard Mr. M. Haque, learned counsel for the petitioner and Mr. R. Kaushik, learned Addl. Public Prosecutor for the State respondent.

This application under Section 438 Cr.P.C. has been filed seeking pre-arrest bail by the petitioner, who is apprehending arrest in connection with North

Lakhimpur P.S. Case No. 415/2022 registered under Sections 406/ 417/ 34 IPC.

Case diary as called for is received and perused.

It is submitted by the learned counsel for the petitioner that the petitioner is an innocent and not committed any offence as alleged in the FIR. It is also submitted that the petitioner is a retailer shop owner and he sells various grocery items including cosmetic products without any complaint from any quarter.

The allegations made in the FIR is that the petitioner was found selling counterfeited goods in his shop but the petitioner received the said items from a whole sale dealer as genuine and after payment of the said products he used to sell this items on bonafide belief that those were genuine products.

It is further submitted by the learned counsel for the petitioner that after obtaining interim pre-arrest bail, the petitioner has appeared before the I.O. and his statement has been recorded under Section 161 Cr.P.C including the statement of the distributors. Now, the petitioner is ready and willing to cooperate with the investigation as and when required for the purpose of investigation.

In this context, the learned Addl. PP has submitted that he has received FSL report which shows that the product seized from the possession of the petitioner does not match with the genuine products though he stated before the I.O. that purchased those products on bonafide belief as genuine product.

After hearing the learned counsel for both the parties and on perusal of the case diary and the statement of the present petitioner and the distributor already recorded by the I.O., this court is of the view that custodial interrogation may not be necessary.

In view of the above, I find it fit case to extend the benefit of pre- arrest bail to the petitioner. Hence, the interim order dated 22.02.2023 passed earlier in this case is made absolute under the following terms and conditions that:

1. the petitioner shall make himself available for interrogation by the I.O. as and when required;
2. the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any persons acquainted with the facts of the case so as to dissuade him or her from disclosing such facts to the Court or to any police officer;
3. the petitioner shall not leave the territorial jurisdiction of the learned CJM, Lakhimpur, North Lakhimpur and North Lakhimpur Police Station without prior permission;
4. the petitioner shall not hamper with the investigation of the case and tamper with the evidence; and
5. the petitioner shall provide assistance to the I.O. as and when required.

The bail application stands disposed of.

Return the case diary.

JUDGE

Comparing Assistant