

GAHC010076562023



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

Case No. : AB/1373/2023

CHAMPAK DEKA
S/O LATE RAMESH DEKA, R/O R.N.C PATH, HATIGAON, P.S.-HATIGAON,
DIST-KAMRUP (M), ASSAM

VERSUS

STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. A K SHARMA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 05.06.2023

Heard Mr. A. K. Sharma, learned counsel appearing for the petitioner. Also heard Ms. S. H. Borah, learned Additional Public Prosecutor appearing for the State of Assam.

2. This Anticipatory bail petition has been filed by the

petitioner, namely, Mr. Champak Deka is apprehending arrest in connection with Raha Police Station case No. 79/2023, registered under Section 392 of IPC.

3. Learned counsel for the petitioner submits that by an FIR dated 19.03.2023 the informant, one, Md. Babaul Ali alleged that on 24.02.2023 a truck bearing Registration No. AS-25-BC-3499 was forcibly taken away from the driver of the informant at Raha New Chariali by the FIR named accused persons. Threats were issued by the accused persons and a huge amount of money was also demanded. It is also mentioned that because of his illness there was some delay in filing the FIR. The petitioner is one the accused person named as accused in the FIR. Apprehending arrest the anticipatory bail petition was filed.

4. This Court by earlier order dated 12.04.2023 while calling for case dairy had granted interim bail to the petitioner.

5. The case dairy called for has been produced by Ms. S. H. Borah, learned Additional Public Prosecutor appears for the State of Assam. The case dairy produced has been carefully perused.

6. Upon perusal of the case dairy it is seen that the original owner of the vehicle was one Umesh Agarwalla, who had purchased the vehicle on finance from Tata Motors. The petitioner claims to be a person entrusted with the responsibility of recovery of defaulted loan amount or upon

failure by the purchaser to pay the amount, the vehicle is to be recovered. Since as per the records of the Finance Company, the truck bearing Registration No. AS-25-BC-3499 was shown to be under finance, recovery was sought to be made, however, because of the failure of the purchaser to pay, the vehicle was recovered by the Agents including the petitioner. From the materials available in the case diary it is seen that the matter is under investigation and there are no materials to suggest that petitioner did not comply with the directions issued by this Court while grant of interim bail. No materials are seen from the case diary to suggest that pursuant to grant of interim bail, the petitioner did not abide by the conditions mentioned in the said order or that the continuation of the interim bail granted will cause any impediment with the investigation that is carried on.

7. Upon due consideration of the materials available before this Court, this Court is of the view that the interim bail granted vide order dated 12.04.2023 can be made absolute. The interim bail granted earlier is therefore made absolute on the same conditions mentioned in the said order.

8. Accordingly, bail petition is allowed and disposed of.

9. Return the case diary.

JUDGE

Comparing Assistant