

GAHC010106702023



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

Case No. : AB/1765/2023

SANJAY DEKA @ SARU
S/O LATE SONA RAM DEKA
R/O BEZERA
P.S. BAIHATA CHARIALI
DIST. KAMRUP, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR S M ABDULLAH P

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 19.07.2023

Heard Mr. D. Saikia, learned counsel for the petitioner. Also heard Mr. K. K. Das, learned Additional Public Prosecutor for the State.

This anticipatory bail application has been preferred under Section 438 of Code of Criminal Procedure, 1973, by the present petitioner, Sanjay Deka @

Saru praying for grant of pre-arrest bail to the petitioner, who is apprehending arrest in connection with Baihata Chariali P.S. Case No. 133/2023 registered under Sections 143/147/333/353/427/355/506 of the IPC read with Section 3 of PDPP Act.

The accusation in this case is that on 09.05.2023 an FIR was lodged by one Tinku Goswami before the Officer In-charge of Baihata Chariali Police Station, inter-alia, alleging that on 08.05.2023, at about 10.10 pm, on receipt of a telephonic information to the effect that a fire incident has taken place in Bezera Chowk. The staff of Fire and Emergency service reached the place of occurrence for controlling the situation, however 10 to 12 persons restrained the fire officials from doing their work and also damaged the vehicle bearing registration No. AS-30-6254.

In the case it appears that by order dated 26.05.2023, the petitioner was granted interim anticipatory bail by this Court with certain conditions. Learned counsel for the petitioner has submitted in pursuant to the direction of this Court the petitioner has appeared and his statement was also recorded. Learned Additional Public Prosecutor submits that the case diary has been received before the Court.

He also submitted that though the statement of the present petitioner was recorded by the Investigating Officer under section 161 CrPC, however, there are incriminating materials against the present petitioner in the case diary and the some witnesses are yet to be examined by the Investigating Officer and on this ground he opposed the grant of anticipatory bail of the present petitioner.

I have heard the submissions made by the learned counsels for both sides and perused the materials on record including the case diary.

Though, there appears to be some incriminating materials against the present petitioner, however, considering the fact that the petitioner has appeared before the Investigating Officer in pursuant to the direction of this Court and his statement under section 161 CrPC has already recorded and also considering the fact that the investigation has fairly progressed, the custodial detention of the petitioner does not appear be necessary for fair completion of Baihata Chariali P.S. Case No. 133/2023, if the petitioner continues to co-operates with the Investigating Officer.

Hence, the interim anticipatory bail granted to the petitioner by order dated 26.05.2023 of this Court is hereby made absolute with the condition nos. 2, 3 and 4 attached to the said order remaining intact.

With the above observations, this anticipatory bail application is accordingly disposed of.

Let the case diary be sent back.

JUDGE

Comparing Assistant