

GAHC010107122023



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

Case No. : AB/1783/2023

ABDUL ALI
S/O LATE NUR HUSSAIN ALI, R/O VILL- 2 NO. LOHARKATHA, P.S.-
MUKALMUA, SUB-DIVISION-NALBARI, DIST-NALBARI, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. S K GOSWAMI

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MRS. JUSTICE MALASRI NANDI
ORDER

26.05.2023

Heard Mr S K Goswami, learned counsel appearing for the petitioner and Ms N Das, learned Additional Public Prosecutor for the State of Assam.

2. By this application filed under Section 438 CrPC, the petitioner, Abdul Ali, has sought for pre-arrest bail, apprehending his arrest in connection with Fatasil Ambari PS case No. 73 of 2023, under Section 379 IPC.

3. Learned counsel for the petitioner has submitted that the stolen motorcycle has been recovered and the accused persons who were involved in the theft of the motorcycle have also been arrested. It is further submitted that many persons used to park their motorcycles in the petitioner's campus to cross the river, which is located in the char area. However, it is also submitted that as the stolen motorcycle has been recovered, custodial interrogation of the petitioner is not required and as such, the petitioner may be granted pre-arrest bail.

5. On the other hand learned Additional Public Prosecutor has submitted that as per the seizure list, the motorcycle was recovered from the campus of the present petitioner and accordingly, as such, she has objected to the bail prayer made on behalf of the accused.

6. I have heard the submissions made by the learned counsel for both the parties. I have also perused the Case Diary.

7. In view of the facts and circumstances of the case and having regard to the fact that as the stolen vehicle has already been recovered, custodial interrogation of the petitioner is not required. Under such backdrop, this Court is of the opinion that the privilege of pre-arrest bail can be extended to the petitioner, Abdul Ali. Accordingly, it is provided that in the event of arrest in connection with Fatasil Ambari PS Case No. 73 of 2023, the petitioner, namely, Abdul Ali, shall be released on pre-arrest bail on executing a bond of Rs. 20,000/- (Rupees Twenty Thousand), with one surety of the like amount to the satisfaction of the arresting authority. The above privilege is, however, subject to the following conditions:

- (i) the petitioner is directed to appear before the Investigating Officer within a period of 10 (ten) days from today.
- (ii) that the petitioner shall make himself available for interrogation by the Investigating Officer as and when required;

(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.

(iv) the petitioner shall not leave the jurisdiction of the Court, without prior permission of the Court. In case of violation of any of the above conditions by the petitioner, the learned Public Prosecutor is at liberty to move before this Court for cancellation of bail.

8. With the aforesaid observations and directions this Anticipatory Bail Application stands disposed of.

9. Send back the Case Diary.

JUDGE

Comparing Assistant