

GAHC010145052023



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

Case No. : AB/2355/2023

MOHAMMAD ALI
S/O SURAT JAMAL
R/O VILL- NIZ BAGHMARI, P.S. GINGIA, DIST. BISWANATH, ASSAM

VERSUS

THE STATE OF ASSAM
THROUGH THE PP, ASSAM

Advocate for the Petitioner : MR. A B T HAQUE

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

30.08.2023

Heard Mr. A.B.T. Haque, learned counsel for the applicant and also heard Mr. M.P. Goswami, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. Apprehending arrest in connection with Biswanath Chariali P.S. Case No.94/2016,

under Sections 341/342/379/34 IPC, this application under Section 438 Cr.P.C. is preferred by applicant, namely, Mohammad Ali for grant of pre-arrest bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of one FIR lodged by one Bir Bahadur Newar on 15.04.2016. The essence of allegation made in the FIR is that on 15.04.2016, the informant was proceeding from Guwahati towards Gugamukh by driving one vehicle bearing Registration No.AS01-BC-8370 (Oil Tanker) with 12000 litres of Diesel and when the said vehicle reached Sadharu Tea Estate, near Burah Madhab Mandir, one Bolero vehicle restrained the tanker, and some persons in the police dress came out from the Bolero vehicle and took out the informant and the handyman from the tanker by showing sharp weapon and also they took away a sum of Rs.10,000/- with money bag and mobile handset and thereafter, tied both of them with a rope, but later on, they managed to escape.

4. Mr. Haque, learned counsel for the applicant submits that this Court was pleased to extend interim protection to the applicant vide order dated 06.07.2023 and pursuant to the said order, he appeared before the I.O. and his statement is recorded and he has been cooperating with the investigating agency. Therefore, a prayer is being made to make the interim order dated 06.07.2023, absolute, in the same terms and conditions.

5. On the other hand, Mr. M.P. Goswami, learned Additional Public Prosecutor has produced the case diary before this Court and submits that the applicant had appeared before the I.O. and he has been extending cooperation with the investigating agency. Mr. Goswami further submits that the applicant has purchased one mobile phone from another person and the said mobile phone belongs to the informant and except this there is no material against the applicant.

6. Having heard the submission of learned Advocates of both sides, I have gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Goswami, learned Additional P.P.

7. It appears from the case diary that the applicant had appeared before the I.O. and extending cooperation with him and his statement is recorded and one mobile phone was recovered from him, which he had purchased from another person and barring this there

is no material to show the complicity of the applicant with the offence alleged in the FIR. Under the aforesaid facts and circumstances, custodial interrogation of the applicant seems to be not warranted here in this case and accordingly, this Court is inclined to make the interim order dated 06.07.2023 absolute, in the same terms and conditions.

8. In terms of above, this anticipatory bail application stands disposed of.
9. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant