

GAHC010146532023



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

Case No. : AB/2335/2023

BHAWESH MISHRA @ BHABESH MISHRA
S/O- BIJAY MISHRA, RESIDENT OF K.T.C BUILDING, NEAR ABC PETROL
PUMP, BELTOLA, DISTRICT- KAMRUP (M), GUWAHATI ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY P.P., ASSAM

Advocate for the Petitioner : MS. B S GOYAL

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

30.08.2023

Heard Mr. A.J. Hazarika, learned counsel for the applicant and Mr. R.J. Barua, learned Addl. P.P. for the State respondent.

2. Apprehending arrest in connection with **Basistha PS Case No. 319/2023**, under Sections 406/420/506/507/34 of the IPC, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicant, namely, **Sri Bhawesh Mishra @ Sri Bhabesh Mishra** for grant of pre-arrest bail.

3. The said case has been registered on the basis of an FIR lodged by one Santosh Singh Paliwal, on 06.06.2023. The essence of allegations made in the FIR is that the informant had purchased one TATA LPT 1512 Truck, bearing registration No. NL-01-AF-1385 and the vehicle was hypothecated to the HDFC Bank and after purchasing of the vehicle he had placed the same in the custody of Digital Logistic, owned by one Vijay Singh Khuswaha and thereafter, he left for his native place at U.P. to attend his ailing mother. After returning from native place he came to know that Digital Logistic had not been paying the EMI and without his knowledge sold the vehicle to one Mr. Bhabesh Mishra, the present applicant.

4. Mr. Hazarika, learned counsel for the applicant submits that the applicant had purchased the aforesaid vehicle from the informant and Digital Logistic, owned by one Vijay Singh Khuswaha and when the informant refused to sign in the transfer document, the applicant has lodged one complaint before the learned CJM, Kamrup [M] at Guwahati, upon which the learned court below has taken cognizance of the offence, under Section 420/120[B]/34 of the IPC and issued process against the informant and Vijay Singh Khuswaha of Digital Logistic and upon receiving the summon from the learned court below the informant has falsely lodged this FIR, implicating the applicant with the offence alleged in the FIR. Mr. Hazarika further submits that pursuant to the order of this court dated 30.06.2023, the applicant had appeared before the IO and his statement is recorded and he has been co-operating with the Investigating Agency, and therefore, it is contended to make the interim order, dated 30.06.2023, absolute in the same terms and conditions.

5. On the other Mr. Barua, producing the case diary before this court, submits that the applicant had appeared before the IO and his statement is recorded and the concerned vehicle has not yet been recovered, though some progress has been made in the investigation of the case.

6. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition as well as the documents placed on record and also perused the Case Diary with the assistance of learned Additional Public Prosecutor.

7. In view of the submissions of learned counsel for both the parties as well as considering the stage of investigation and also considering the fact that the statement of the applicant is recorded and he has been cooperating with the investigation agency, his custodial interrogation seems to be unwarranted here in this case, and therefore, this Court is inclined to make the interim order dated 30.06.2023, absolute in the same terms and condition.

8. In terms of above this AB stands disposed of.

9. The case diary be returned.

JUDGE

Comparing Assistant