

GAHC010151362023



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

Case No. : AB/2413/2023

MAKBUL SIKDAR
S/O LATE KANTU SIKDAR
R/O TAXI ALI
P.O. AND P.S. SIVASAGAR,
DIST SIVASAGAR, ASSAM
PIN-785640

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. P D NAIR

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

28.08.2023

Heard Mr. P.D. Nair, learned counsel for the applicant and also heard Ms. A. Begum, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application, under Section 438 Cr.P.C., is preferred by applicant, namely, Makbul Sikdar, who has been apprehending arrest in connection with Sivasagar P.S. Case No.91/2023, under Sections 457/380/411 IPC, 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 S.I. Nabajyoti Das of Sivasagar P.S. The essence of allegation made in the FIR is that on 16.06.2023 he along with his staff conducted a search in the scrape damp of accused Makbul Sikdar situated at Taxi Ali Pachi Pathar, acting in a tip off, and recovered, one blue colour mater pump (CRI pump), one yellow colour mater pump (V-Guard), two nos. of broken tube-well, one machine red colour with wire, one cycle ring and 8 nos. of iron pati of vehicle and on being asked, Makbul Sikdar could not show any document of the aforesaid articles and also the permission of the damp.

4. Mr. Nair, learned counsel for the applicant submits that the applicant is a businessman and he deals with the scrape and people used to sale the aforesaid articles in his damp and that he is no way involved with any of the offences alleged in the FIR and that he is ready to cooperate with investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, Mr. R.J. Baruah, learned Additional Public Prosecutor has produced the case diary before this Court and submits that the I.O. till date could not ascertain as to whether the recovered and seized articles from the damp of the applicant are of stolen articles or not.

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. Baruah, learned Additional P.P.

7. In view of the materials collected so far in the case diary and also in view of the submission of learned Advocates of both sides, custodial interrogation of the applicant seems to be not warranted here in this case and accordingly, this Court is inclined to allow this petition. It is provided that in the event of arrest of the applicant, namely, Makbul Sikdar, in connection with Sivasagar P.S. Case No.91/2023, under Sections 457/380/411 IPC, he shall be enlarged on pre-arrest bail on furnishing a bail bond of ₹ 50,000/- 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 applicant shall make himself available for interrogation by the Investigating

Officer as and when required;

- (ii) The applicant 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; and
 - (iii) The applicant shall not leave the jurisdiction of the learned C.J.M., Sivasagar, without prior permission.
8. In terms of above, this anticipatory bail application stands disposed of.
9. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant