

GAHC010166642023



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

Case No. : AB/2637/2023

SHAKEEL HASAN HABIB @ SAKIL HUSSAIN
S/O HABIBUR RAHMAN R/O WARD NO. 2 STADIUM ROAD P.O.
MANGALDAI P.S MANGALDAI SADAR DIST DARRANG ASSAM PIN 784125

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. S N TAMULI

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

30.08.2023

Heard Mr. S.N. Tamuli, learned counsel for the applicant and also heard Ms. A. Begum, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. Apprehending arrest in connection with Mangaldai P.S. Case No.349/2023, under Sections 448/427/380 IPC, this application under Section 438 Cr.P.C. is preferred by

applicant, namely, Shakeel Hasan Habib @ Sakil Hussain 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 Sukanya Gogoi on 20.07.2023. The essence of allegation made in the FIR is that the informant on 26.12.2022 kept her Maruti Brezza vehicle bearing Registration No.AS01-ES-3233, which met with an accident and damaged completely, in one of the garages of the residential quarters allotted to Judicial Officers, situated at Magistrate Colony, Mangaldai, with the permission of the District & Sessions Judge, Darrang. On 20.07.2023, when she went to check up the vehicle, she found numbers of valuable parts of the said vehicle, namely, battery, radiator, spare tyre, music system etc. were stolen from the said vehicle and the door of the garage was opened at the instance of the applicant, who was repairing the said quarter as per direction of Additional Deputy Commissioner.

4. Mr. Tamuli, learned counsel for the applicant submits that the applicant is on interim pre-arrest bail pursuant to the order of this Court dated 01.08.2023, and he appeared before the I.O. and cooperating with the investigating officer and he is no way involved with the offence alleged in the FIR and he is a private contractor and as per direction of Additional Deputy Commissioner, Mangaldai, he undertook repairing work in the said quarter, where the vehicle was placed and therefore, Mr. Nawaz contended to make the interim order dated 01.08.2023 absolute, in the same terms and conditions.

5. On the other hand, Ms. A. Begum, learned Additional Public Prosecutor has produced the case diary before this Court and confirmed that the applicant had appeared before the I.O. and cooperating with the I.O. and investigation is still going on and the stolen articles are yet to be recovered.

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 Ms. Begum, learned Additional P.P.

7. It appears from the case diary produced before this Court that the applicant had appeared before the I.O. and extending cooperation with investigating agency and his statement is also recorded. Further, it appears from the case diary that the investigation is

still going on and in view of the progress of investigation as well as 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 make the interim order dated 01.08.2023 absolute, 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., Mangaldai, 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