

GAHC010177992023



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

Case No. : AB/2836/2023

SHAHJAHAN ALI AHMED @ SHAHJAN ALI
S/O- LATE RAHAM ALI, VILLAGE- BHATKUCHI, MOUZA- JANIA, PO-
BHATKUCHI, P.S. BARPETA, DIST.- BARPETA, ASSAM

VERSUS

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

Advocate for the Petitioner : MR. J AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 03-10-2023

1. Heard Mr. J Ahmed, learned counsel for the applicant and also heard Ms. N Das, learned Addl. PP, appearing for the State Respondent.

2. This application under section 438 Cr.P.C., is preferred by applicant, namely, ***Shahjahan Ali Ahmed @ Shahjan Ali***, who has been apprehending arrest in connection with Barpeta PS Case No.369/2023 (GR Case No.1138/2023) under sections

120B/406/407/408/417/420 IPC for grant of pre-arrest bail.

3. The above noted case is registered on the basis of an FIR lodged by one Aminul Islam on 29.07.2023. The essence of allegation made in the FIR dated 29.07.2023, is that one Habibur Rahman has been working as Truck driver of the informant Aminul Islam for the last 20 years and on 26.07.2023, the father of the informant, namely, Abdul Barek Saheb gave a sum of Rs.25,00,000 to Habibur Rahman to bring articles for their hardware shop from Guwahati and on that day Habibur Rahman returned with the articles, however, he did not made payment of the amount to the owner of the shop and when asked Habibur Rahman stated that some unknown persons have taken away the aforesaid amount on his way to Guwahati. When asked Javed Ali, the helper of the aforesaid truck, informed that Habibur Rahman handed over the amount to one of his known person at a time when one Rakibul Islam @ Babul took away Habibur Rahman and one Matiur Rahman and Shah Jahan Ali kept Habibur Rahman concealed in some unknown place so as to misappropriate the aforesaid amount.

4. Mr. J Ahmed, learned counsel for the applicant submits that this Court, vide order dated 14.08.2023, was pleased to extend the interim protection to the applicant and pursuant to the said order the applicant had appeared before the IO and he has been cooperating with the investigating agency and therefore, Mr. Ahmed, contended to make the interim order dated 14.08.2023, absolute in the same terms and conditions.

5. On the other hand, Ms. N Das, learned Addl. PP submits that

she has received the case diary and further submits that the IO has examined some witnesses here in this case and in view of the progress of investigation custodial interrogation of the applicant is not required.

6. Having heard the submissions of the learned Advocates for both the sides, I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of Ms. N Das, learned Addl. PP.

7. It appears that pursuant to order of this court dated 14.08.2023, the applicant had appeared before the IO and he has been cooperating with the investigating agency. Further it appears from the case diary that the IO has made substantial progress in the investigation of this case and he has examined some witnesses here in this case.

8. In view of the progress of investigation of the applicant and also in view of the cooperation extended by the applicant to the investigating agency, his custodial interrogation seems to be not warranted here in this case and therefore, this Court is inclined to make the interim order dated 14.08.2023, absolute in the same terms and conditions.

9. In terms of the above, this AB stands disposed of.

10. The case diary be returned.

JUDGE