

GAHC010178052023



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

Case No. : AB/2845/2023

INAMUL HOQUE @ RIBUL
S/O LATE SAFIRUDDIN
R/O VILL- BATAMARI
P.S. JURIA
DIST. NAGAON, ASSAM
PIN-782124

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. R P SARMAH

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 01.09.2023

Heard Mr. R. P. Sarmah, learned Senior Counsel, assisted by Mr. P. N. Sharma, learned counsel for the petitioner. Also heard Mr. B. Sharma, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 438 of the code of Criminal Procedure, 1973, praying for grant of pre-arrest bail to the accused/petitioner, who is apprehending arrest in connection with Dhing P.S. Case No. 89/2023, under Sections 120(B) of the Indian Penal Code *read with* Section 25(1A)/29 of the Arms Act.

The Case Diary has been received and I have perused the same.

It is submitted by the learned Senior Counsel for the petitioner, Mr. Sarmah, that the present petitioner was earlier arrested in connection with this case on 16.06.2023 and up to 19.06.2023, he was under the police custody. Thereafter a petition for bail was moved before the learned Sessions Judge, Nagaon, on 19.06.2023 and accordingly, he was granted with the interim bail. But, after perusal of the Case Diary, on 27.07.2023, his bail was cancelled by the

learned Sessions Judge, Nagaon, and hence, the present anticipatory bail application has been filed by the accused/petitioner seeking protection under Section 438 Cr.P.C. It is further submitted by the learned Senior Counsel for the petitioner that the materials in the F.I.R. does not fulfill the ingredients of Section 25(1A)/29 of the Arms Act and no any weapon was recovered from the possession of the petitioner and it was one Anarul Hoque from whose house the arms and ammunitions were recovered. Further it is submitted that the informant has lodged the F.I.R. only with some conspiracy and it is a fact that one Abdul Majid is the mastermind of the entire crime and he engaged the other accused persons to keep the arm in the house of Anarul Hoque only to take revenge. Further it is submitted that the petitioner was already in police custody for 4 (four) days and the police had already recorded his statement and he is ready to co-operate with the I.O. in further investigation of this case.

In this context, the learned Additional Public Prosecutor, Mr. Sharma, has submitted that it is a fact that the arms and ammunitions were recovered from one Anarul Hoque, but it reveals from the materials in the Case Diary that those arms and ammunitions were planted in the house of the co-accused, Anarul Hoque, by one mastermind- Abdul Majid only to take revenge. He further submitted that it is a fact that the accused/ petitioner was in custody and he was also granted with interim bail by the learned Sessions Judge, Nagaon, but considering the materials available in the Case Diary, his bail was subsequently cancelled by the learned Sessions Judge, Nagaon.

After considering the submissions of learned counsels of both sides and also considering the fact that the accused was already in custody of the police for more than 3 (three) days and also considering the materials available in the Case Diary, I find that custodial interrogation of the present accused/petitioner is not necessary in this case and therefore, I find it a fit case to extend the privilege of pre-arrest bail to the accused/petitioner.

Accordingly, it is provided that in the event of arrest of the accused/petitioner, namely, Inamul Hoque @ Ribul, in connection with Dhing P.S. Case No. 89/2023, under Sections 120(B) of the Indian Penal Code *read with* Section 25(1A)/29 of the Arms Act, he shall be enlarged on pre-arrest bail on his executing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the arresting authority, subject to the following conditions:

- (i) that the petitioner shall appear before the Investigating Officer of the case within 10 (ten) days from today to enable recording of his statement;
- (ii) that the petitioner shall fully co-operate with the investigation of the case and shall appear before the Investigating Officer as and when required in connection with the investigation of the aforesaid P.S. Case; and

- (iii) that the petitioner 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.

The anticipatory bail application stands disposed of in terms above.

The Case Diary be sent back.

JUDGE

Comparing Assistant