

GAHC010179862023



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

Case No. : AB/2902/2023

NAREN BORA
S/O LATE LAKHI RAM BORA
R/O HUKANPUKHURI,
P.O. HUKANPUKHURI, P.S BORDUBI,
DIST. TINSUKIA, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A K GUPTA

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

09.11.2023

Heard Mr. A.K. Gupta, learned counsel for the applicant and also heard Mr. B. Sarma, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. Apprehending arrest in connection with Tinsukia P.S. Case No.373/2023, under Section 120(B)/379/427 IPC, read with Section 7 of the Essential Commodities Act, read with Section 3 of the Prevention of Damage to Public Property (PDPP) Act, read with Section 15 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Amendment Act, 2011, this application under Section 438 Cr.P.C. is preferred by the applicant, namely, Naren Bora, for grant of pre-arrest bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by one Sachin Kumar, Manager-Security, Oil India Limited, Duliajan, on 15.06.2023. The essence of allegation made in the aforesaid FIR is that on receipt of information about pilferage of crude oil from Hukanpukhri tapping point in and around midnight on 15.06.2023 the oil security party reached the Hukanpukhri and found three numbers of tapping point on 8 inch crude oil delivery Barekuri-Makum pipeline and recovered a white colour hose pipe – approx. 25 mtrs., 7 nos. of tape roll, iron pipe – approx. 0.5 ft. and other tyre tube and clamp and after visiting the Makum P.S. they came to know that police party apprehending one tanker, bearing Registration No.AS-06AC-1691 loaded with pilfered crude oil of 12000 litres and also apprehended one driver Budhi Ravi Das.

4. Mr. Gupta, learned counsel for the applicant submits that the applicant was granted the privilege of interim pre-arrest bail vide order dated 22.08.2023 and pursuant to the said order, the applicant had appeared before the I.O. and he has been cooperating with the investigating agency. Therefore, Mr. Gupta contended to make the interim order dated 22.08.2023, absolute, in the same terms and conditions.

5. On the other hand, Mr. B. Sarma, learned Additional P.P. has opposed the petition on the ground that the I.O. has collected sufficient incriminating materials against the applicant and the co-accused persons stated that on the basis of direction issued by the

present applicant they have committed pilferage of crude oil. Mr. Sarma further submits that the applicant is a habitual offender and five cases are pending against him and therefore, Mr. Sarma has opposed the petition.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Sarma, learned Additional P.P.

7. The case diary indicates that the I.O. has collected sufficient incriminating materials against the applicant. Further, the case diary indicates that the applicant is an accused of (i) Silapathar P.S. Case No.318/2020 under Section 379/34 IPC read with Section 23(1)(f) of the Petroleum Act; (ii) Digboi P.S. Case No.206/2021 under Section 285/379 IPC read with Section 21(a) of the Petroleum Act, read with Section 3/4 of PDPP Act; (iii) Duliajan P.S. Case No.68/2021 under Section 379/427 IPC read with Section 3(2)(b) of the PDPP Act read with Section 23 of the Petroleum Act; (iv) Golaghat P.S. Case No.267/2022 under Section 120(B)/379 IPC read with Section 3 of the PDPP Act and (v) Nagaon P.S. Case No.243/2022 under Section 379 IPC.

8. Having regards to above and also having regards the nature and gravity of the offence, this Court is of the view that this is not a fit case where the privilege of pre-arrest bail can be extended to the applicant and accordingly, the anticipatory bail application stands dismissed. Case diary be returned.

9. Interim order passed earlier stands vacated.

Sd/- Robin Phukan
JUDGE

Comparing Assistant