

GAHC010180992023



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

Case No. : AB/2871/2023

MD. CHAHAR ALI
S/O MD AMIR ALI
R/O VILL- NO. 2 CHARABORI,
P.S. HAJO, KHOPANIKUCHI, KAMRUP, ASSAM

VERSUS

THE STATE OF ASSAM
THROUGH PP, ASSAM

Advocate for the Petitioner : MR P UPADHYAY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

14.09.2023

Heard Mr. P. Upadhyay, learned counsel for the applicant and Mr. R.R. Koushik, learned Additional Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with **Jalukbari P.S. Case No. 389/2023**, under Section 379 of the IPC, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicant, namely, **Md. Chahar Ali** for grant of pre-arrest bail.

3. The said case has been registered on the basis of one F.I.R., lodged by SI Manjul Doley, on 06.07.2023. The essence of allegations made in the FIR is that on

05.07.2023, at about 11 pm, some local people of Jalukbari apprehended one TATA 1815 Truck, bearing registration No. AS-01-AQ-1735, at Jalukbari Flyover with 200 bags of DAP [fertilizer], which are suspected to be of stolen property.

4. Mr. Upadhyay, learned counsel for the applicant submits that the name of the applicant is not mentioned in the FIR and that the applicant is the registered owner of the Truck. Mr. Upadhyay further submits that he is no way involved with the offence alleged in the FIR and he also produced one original tax invoice of purchasing 200 nos. of bag before this Court and submits that the fertilizers were not stolen property. Mr. Upadhyay also submits that the applicant is ready to cooperate with the investigating agency, and therefore, it is contended to allow the petition.

5. On the other hand, Mr. Koushik, learned Additional Public Prosecutor, has produced the case diary before this court and submits that he has collected some materials in respect of the allegations made in the FIR and therefore, it is contended to dismiss the petition.

6. Having heard the submissions of learned Advocates of both sides, I have carefully perused the petition as well as the documents placed on the record and also perused the case diary with the assistance of learned Addl. P.P.

7. Having considered the materials collected so far in the case diary as well as the progress of investigation and also considering the tax invoice produced before this Court by Mr. Upadhyay, learned counsel for the applicant, this Court is inclined to extend the privilege of pre-arrest bail to the applicant.

8. Accordingly, it is provided that in the event of arrest of the applicant, in connection with **Jalukbari P.S. Case No. 389/2023**, under Section 379 of the IPC, he shall be enlarged on pre-arrest bail on executing a bond of Rs. 50,000/- only, with one surety of like amount to the satisfaction of the arresting authority.

9. The above privilege is, however, subject to the following conditions:

(i) that the applicant shall make himself available for interrogation by the Investigating Officer as and when required;

(ii) that 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) that the applicant shall not leave the jurisdiction of the learned **CJM, Kamrup [M] at Guwahati**, without prior permission.

10. In terms of above, this AB stands disposed of.

11. The case diary be returned.

JUDGE

Comparing Assistant