

GAHC010206122023



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

Case No. : AB/3223/2023

SITA RAM AGARWALLA
S/O LATE MOHAN LAL AGARWALLA,
R/O B.O.C. GATE,
BONGAIGAON, DIST. BONGAIGAON, ASSAM, PIN-783380

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, GOVT. OF ASSAM

Advocate for the Petitioner : MR S DEWRI

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

08.11.2023

Heard Mr. S. Dewri, learned counsel for the applicant and also heard Mr. K.K. Das, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. Apprehending arrest in connection with STF P.S. Case No.03/2010, under Section

379 IPC, this application under Section 438 Cr.P.C. is preferred by applicant, namely, Sita Ram Agarwalla 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 Ravinder Singh on 18.11.2010. The essence of allegation made in the FIR is that his brother Tarbinder Singh has carried coal in two trucks, bearing registration Nos.PB-23E-2071 and PB-23F-2071 and proceeding to Himachal Pradesh on 20.10.2010. The aforementioned trucks were being driven by one Balbir Singh and one Tarbinder Singh and the trucks failed to reach the destination in time, and later on, he came to know that the coals of the trucks were stolen by some miscreants at Jogighopa and the vehicles are also found untraced and the value of the coal is approximately ₹ 28,00,000/-.

4. Mr. Dewri, learned counsel for the applicant submits that the applicant was granted the privilege of interim pre-arrest bail vide order dated 28.09.2023, but he had not appeared before the I.O. pursuant to that order, as because he had already appeared before the I.O. and his statement was recorded. Further, Mr. Dewri submits that he is no way involved with the offence alleged in the FIR and his name is also not reflected in the FIR, but he is being search by police and since he has been cooperating with the investigating agency, Mr. Dewri contended to make the interim order dated 20.09.2023, absolute, in the same terms and conditions.

5. On the other hand, Mr. K.K. Das, learned Additional P.P. has produced the case diary before this Court and submits that the applicant has not cooperating with the investigating agency and that he has received two Trucks and made payment of ₹ 6,00,000/- and sold the same to other persons, but he did not disclose the number of the Trucks before the police and therefore, Mr. Das submits that custodial interrogation of the applicant is necessary and it is contended to dismiss this 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. Das, learned Additional P.P.

7. It appears that the applicant had appeared before the I.O. prior to the order of this Court dated 20.09.2023, and his statement is recorded by the I.O. It also appears that the applicant has not been cooperating with the investigating agency and the learned Additional P.P. has rightly pointed it out referring to the statement recorded by police. It also appears from the case diary that the stolen Trucks have not yet been recovered and as such, it cannot be said that custodial interrogation of the applicant is not required in the interest of investigation. His custodial interrogation is indispensable in order to recover the stolen Trucks.

8. In view of above, 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