

GAHC010210332023



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

Case No. : AB/3207/2023

SAHA ALOM SHEIKH
S/O- ABDUL GAFUR, R/O- BIRSING PART-I, P.S. FAKIRGANJ, DIST.- DHUBRI,
ASSAM

VERSUS

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

Advocate for the Petitioner : MR. S MUNIR

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

26.09.2023

Heard Mr. S. Munir, learned counsel for the applicant and also heard Ms. A. Begum, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application, under Section 438 Cr.P.C. is preferred by the applicant, namely, Saha Alom Sheikh, who has been apprehending arrest in connection with Paltanbazar P.S.

Case No.394/2023, under Section 379 IPC, 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 Pradip Rabha of Paltanbazar P.S. on 08.09.2023. The essence of allegation made in the FIR is that on that day while he was attending duty at Rehabari area along with ERSS-9 staff, he found one person loading some stolen copper wire, copper pipe, iron water tap and other metallic articles in a TATA YODHA vehicle bearing Registration No.AS-01PC-9975 in a scrap shop belonging to Shah Alom Sheikh.

4. Mr. Munir, learned counsel for the applicant submits that the applicant is the owner of the scrap damp and people used to sell articles in his damp and he has no knowledge whether those articles are stolen articles or not and that he is ready to cooperate with the investigating agency and therefore, it is contended to allow this petition.

5. On the other hand, Ms. A. Begum, learned Additional Public Prosecutor has vehemently opposed the petition and producing the case diary before this Court, Ms. Begum submits that the I.O. has collected sufficient incriminating materials against the applicant and therefore, it is contended to dismiss 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 Ms. Begum, learned Additional P.P.

7. It appears from the case diary that the I.O. has achieved substantial progress in the investigation of the case. He has arrested some of the accused persons and also seized the articles found in the TATA YODHA vehicle. Notably, no FIR has been filed regarding stealing of the aforementioned articles, namely, copper wire, copper pipe, iron water tap and metallic articles. In view of above and also in view of the progress of investigation and the materials collected so far in the case diary, custodial interrogation of the applicant seems to be unwarranted here in this case and therefore, this Court is inclined to allow this petition. It is provided that in the event of arrest of the applicant, namely, Saha Alom Sheikh in connection with Paltanbazar P.S. Case No.394/2023, under

Section 379 IPC, he shall be enlarged on pre-arrest bail on his executing a bail bond of Rs.50,000/- with one surety of the like amount to the satisfaction of the arresting authority. The above privilege is, however, subject to the following conditions:-

- (i) The applicant shall make himself available for interrogation by the Investigating Officer as and when required;
 - (ii) 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) The applicant shall not leave the jurisdiction of the learned C.J.M., Kamrup(M), without prior permission.
8. In terms of above, this anticipatory bail application stands disposed of.
9. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant