

GAHC010210682023



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

Case No. : AB/3202/2023

PANKAJ KUMAR BORA
S/O LATE LAKHI KANTA BORAH
R/O VILL- SIANAGAR, BYE LANE NO. 3, PANIGAON, P.S. NAGAON
DIST. NAGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. S BORTHAKUR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

09.10.2023

Heard Mr. S. Borthakur, learned counsel for the applicant and Mr. P. Borthakur, learned Additional Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with **BI [EO] PS Case No. 21/2023**, under Sections 120[B]/379/411/119 of the IPC read with Sections 35/41 of the Assam Forest Regulation Act, this application under Section 438 of

the Code of Criminal Procedure, 1973, is preferred by applicant namely, **Sri Pankaj Kumar Bora** for grant of pre-arrest bail.

3. It is to be noted here that the above noted case has been registered on the basis of one FIR, lodged by one Sanjib Kumar Goswami, Inspector of Police, BIEO, Assam on 25.08.2023. The essence of allegation made in the said FIR is that on the basis of news item published in Axomia Pratidin on 04.03.2023, a preliminary enquiry was conducted by Shri Amrit Ch. Kalita, Dy.S.P. CM's SVC, Assam and a report, vide PE No.05/2023, was submitted, which indicates that several persons, namely, Dandinath Missong, Dimbeswar Mipun, Memsura Missong, Mona Missong and Chandra Missong of Village Dadhiya, under Chabua P.S. are involved in smuggling timbers illegally from Dibru- Saikhowa National Park. The report also indicates that several saw mills, namely, Khan Saw Mill, Santosh Kumar Dhelia Saw Mill, Raj Saw Mill, Rupai Saw Mill, Asu Das, Mukti Singh, Ramavater Saw Mill, Das & Das Saw Mill, which are set up on the river bank of Brahmaputra, near Dibrugarh Town, collects the logs from the river and transported it after sawing. The report further indicates that one Pradip Medhi, Writuraj Buragohain, Raju medhi, Kalyan Sonowal, Mohan Sonowal, Hemanta Moran, Gunin Gogoi, Dharani Gogoi, Sanjoy Sharma and Wajid Khan of Tinsukia district have been running timber business covering Assam Arunachal border area. Further, the report indicates that local Forest Officials of Sadiya, Doom Dooma, Talap, Tinsukia, Dibrugarh, Guijan Range and Saikhowa Wildlife Range and Police Officials are aware about such illegal trade.

4. Mr. S. Borthakur, learned counsel for the applicant submits that the applicant has been serving as Range Forest Officer in Dibrugarh Range. Mr. Borthakur further submits that except Section 119 of the IPC, the other offences mentioned in the FIR, are not applicable against the applicant and that there is

shortage of manpower and only four guards and one work charge employees are there in his office and there is no logistic support and as such, he is not in a position to carry out the routine checking as required, however, he has already written to the Divisional Forest Officer, Dibrugarh to provide manpower support to him. Mr. Borthakur also submits that pursuant to the order of this court dated 18.09.2023, the applicant had appeared before the IO and his statement has been recorded and he has been co-operating with the Investigating Agency and, therefore, it is contended to make the interim order, dated 18.09.2023, absolute in the same terms and conditions.

5. On the other Mr. P. Borthakur, learned Additional Public Prosecutor by producing the case diary before this court, opposed the petition and submits that the IO has collected some materials against the applicant.

6. Having heard the submissions 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 learned Additional Public Prosecutor.

7. It is not in dispute that the applicant had appeared before the IO and he has been cooperating with the investigating agency. Further, it appears from the case diary that the IO has collected some materials against the applicant. But, the same appears to be not at all sufficient to justify the custodial interrogation of the applicant. Besides, the applicant has been cooperating with the investigating agency.

8. Having regards to above and also having regards to the nature of accusation and the punishment prescribed for the same, this Court is inclined to make the interim order dated **18.09.2023**, absolute in the same terms and condition.

- 9.** In terms of above this AB stands disposed of.
- 10.** The case diary be returned.

JUDGE

Comparing Assistant