

GAHC010212732022



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

Case No. : AB/3090/2022

TAPAN CHANDRA BORA
S/O LATE MADHAB CH. NATH
A RESIDENT OF SOUTH SARANIA, GANDHI MANDAP ROAD, PIN- 781007,
P.S. PALTAN BAZAR
DIST. KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. S D PURKAYASTHA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 14-02-2023

Heard Mr. Z. Kamar, learned Senior Counsel assisted by Mr. S. D. Purkayastha, learned counsel for the petitioner. Also heard Ms. N. Das, learned

Additional Public Prosecutor for the State of Assam.

This is an application under Section 438 of the Code of Criminal Procedure, 1973, for grant of pre-arrest bail to the accused/petitioner, who is apprehending arrest in connection with Satgaon P.S. Case No. 113/2022, under Sections 420/406/468/471 of the Indian Penal Code.

Case Diary has been received and I have perused the same.

It is submitted by the learned Senior Counsel for the petitioner, Mr. Z. Kamar, that considering the health condition and the medical treatment undergone by the petitioner, this Court, vide its order dated 26.10.2022, has extended the privilege of interim pre-arrest bail to the petitioner. The petitioner, after getting the notice under Section 41A of the Code of Criminal Procedure, has intimated the I.O. regarding his health issues and asked the I.O. to come and record his statement and accordingly his statement was recorded and he is co-operating with the I.O. in the investigation of the case. Further it is submitted by the learned Senior Counsel for the petitioner that the petitioner was working as Cashier during the year 2006 to 2009 and he was not aware of any misappropriation of money etc. during his tenure and at present he got retired from his service. However, the petitioner is further willing to co-operate with the I.O. for investigation of the case if he is granted with the privilege of pre-arrest bail and, therefore, considering his health condition, the interim pre-arrest bail order may be made absolute.

In this context, the learned Additional Public Prosecutor, Ms. N. Das, has submitted that the statement of the present accused petitioner has already been recorded by the I.O. under Section 161 of the Code of Criminal Procedure and from the note of the I.O., it reveals that the petitioner has co-operated with the investigation of the case. However, there are incriminating materials against the present accused/petitioner in the Case Diary.

After hearing the submissions of learned counsels for both sides, I have perused the Case Diary and it reveals that the I.O. has already recorded the statement of the present accused/petitioner and he has also co-operated with the investigation of the case. However, it is seen that till date, the I.O. has not collected any such materials relating to the alleged offence.

However, considering the health conditions of the present accused/petitioner and also his conduct, I find that custodial interrogation of the present accused/petitioner may not be necessary in the interest of further investigation and accordingly, the interim pre-arrest bail order, dated 26.10.2022, is hereby made absolute on the following terms and conditions:

- (i) that the petitioner shall fully co-operate with the investigation of the case and shall appear before the Investigating Officer as and when required in connection with the investigation of the aforesaid P.S. Case; and
- (ii) that the petitioner 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.

In terms of above, this anticipatory bail application stands disposed of.

The Case Diary be sent back.

JUDGE

Comparing Assistant