

GAHC010217312023



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

Case No. : AB/3303/2023

HAFIZUR RAHMAN
S/O. ABDUS SOBAHAN,
R/O. VILLAGE- SIMLABARI PT-I
P.S. MARERCHAR, DISTRICT- BONGAIGAON, ASSAM

VERSUS

THE STATE OF ASSAM ,REPRESENTED BY PP, ASSAM

Advocate for the Petitioner : MR S ALI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 26-09-2023

Heard Mr. M. Z. Shah, learned counsel for the applicant and also heard Ms. A. Begum, learned Addl. P.P. for the State respondent.

Apprehending arrest in connection with Mererchar P.S. Case No. 61/2023, under Section 379/411 IPC, this application under Section 438 Cr.P.C. is preferred by the applicants, namely, Hafizur Rahman, for grant of pre-arrest bail.

The above noted case has been registered on the basis of an FIR lodged by one Saidul Islam on 1.9.2023.

The essence of allegation made in the FIR dated 1.9.2023 is that on the night of 30.8.2023 some unknown person stolen two bags of betel nut, which were being kept in front of his house, and later on,

during search, he found two bags of betel nut from the pan shop of one Moynal Khan @ Bhangal situated at Lengtisinga market. Mr. Shah, learned counsel for the applicant submits that the petitioner is a driver of an E – Rickshaw and Moynal Khan had carried the stolen bags of betel nut in his E-Rickshaw and he had no knowledge that the betel nut were stolen and he is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

On the other hand, Ms. A. Begum, learned Addl. P.P. submits that case diary may be called for.

Having heard the submission of learned Advocates of both sides, I have gone through the petition and the documents placed on record.

It appears that the occurrence took place on the night of 30.8.2023 and the stolen two bags of betel nut have already been recovered from the possession of one Moynal Khan @ Bhangal and seized by police. Moynal Khan @ Bhangal has already been arrested and forwarded to the jail hajot vide forwarding report dated 2.9.2023.

In view of the submission of learned counsel for the petitioner as well as the in view of the materials placed on record specially the forwarding report dated 2.9.2023, custodial interrogation of the applicants seems to be not warranted herein this case and therefore, this Court is inclined to allow this petition.

It is provided that in the event of arrest of the applicant, in connection with Mererchar P.S. Case No. 61/2023, under Section 379/411 IPC, he shall be released on pre arrest bail on his executing a bond of Rs.50,000/ with one surety of like amount to the satisfaction of the arresting authority.

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

1. That the applicant shall make himself available for interrogation by the Investigating Officer as and when required;
2. 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
3. That the applicant shall not leave the jurisdiction of the learned SDJM(M) Abhayapuri, without prior permission.

In terms of above, this A.B stands disposed of .

JUDGE

Comparing Assistant