

GAHC010219902023



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

Case No. : AB/3390/2023

MOHABBAT HUSSAIN
S/O- LATE A.K MIAH,
VILL- BILASIPARA WARD NO-4,
P.S- BILASIPARA, DIST- DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR M H AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

16.10.2023

Heard Mr. M.H. Ahmed, learned counsel for the applicant and also heard Mr. K.K. Parasar, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. Apprehending arrest in connection with Mankachar P.S. Case No.322/2023 under

Section 406/420/506 IPC, this application, under Section 438 of Cr.P.C., is preferred by applicant, namely, Mohabbat Hussain, 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 an FIR lodged by one Md. Siraj Doula Ahmed on 05.08.2023. The essence of allegation made in the aforesaid FIR is that the informant Md. Siraj Doula Ahmed has purchased one vehicle (Bus), bearing Registration No.AS-01JC-9366 by fixing the price at ₹ 35,00,000/-, out of which the informant had paid an amount of ₹ 10,90,000/- and the remaining ₹ 24,10,000/- he had paid by way of monthly installments @ ₹ 75,000/- and he had paid all the installments in the bank account of Mohabbat Hussain and after payment of the said amount the applicant Mohabbat Hussain by deceitful means and fraudulently took ₹ 4,65,000/- more from him and that he requested the applicant to return the amount and to produce the clearance certificate from the concerned financier and to do the needful to transfer the ownership in the name of the informant. But the applicant had demanded a sum of ₹ 10,00,000/- from him and also threatened to sell the vehicle to another person in the event of failing to meet his demand.

4. Mr. Ahmed, learned counsel for the applicant submits that the dispute between the informant and the applicant is civil nature and that the applicant has not demanded any money from the informant and the vehicle is still in his name and that the applicant is ready to cooperate with the investigating agency and therefore, it is contended to allow this petition.

5. On the other hand, Mr. K.K. Parasar, learned Additional P.P. has produced the case diary before this Court and submits that the I.O. has collected sufficient incriminating materials against the applicant.

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. Parasar, learned Additional P.P.

7. The case diary indicates that the I.O. has collected sufficient incriminating materials against the applicant in support of the allegation made in the FIR. It appears that the applicant has received the entire price of the vehicle and in spite of receiving the entire

money he had failed to transfer the ownership of the vehicle in the name of the informant, instead demanding more money from the informant and threatened to sell the vehicle to another person in the case of failing to pay the demanded sum of ₹ 10,00,000/-.

8. In view of the materials collected so far in the case diary and also in view of the stage of investigation, it cannot be said that custodial interrogation of the applicant is not required in the interest of investigation. Accordingly, this Court is of the view that this is not a fit case where the privilege of pre-arrest bail can be granted to the applicant. Accordingly, the petition stands dismissed. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant