

GAHC010254172023



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

Case No. : AB/3822/2023

AMIR HAMZA
S/O MD. HUSSAIN ALI
R/O DAKSHINGAON, P.S. HATIGAON,
DIST. KAMRUP (METRO), GUWAHATI, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MD. B HUSSAIN
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 08-12-2023

Heard Mr. B. Hussain, learned counsel for the applicant and also heard Mr. K. K. Parasar, learned Addl. P.P. for the State respondent.

Apprehending arrest in connection with Garchuk P.S. Case No.239/2022, under Section 379 IPC, this application under Section 438 Cr.P.C. is preferred by the applicant, namely, Amir Hamza, for grant of pre-arrest bail.

The above noted case has been registered on the basis of an FIR lodged by one Hirak Jyoti Bezbarua, NR Electricals O & M Service Provider ATC Telcom India Pvt. Ltd on 8.8.2022.

The essence of allegation made in the FIR dated 8.8.2022 is that on 8.8.2022, some unknown persons have committed theft of 6 cell of battery bank of 600 AH and terminal strip 23 pieces, from the ATC site (Global ID 553173), site name Garchuk, near ISBT.

Mr. Hussain submits that the applicant is a driver by profession and he is no way involved with the offence alleged in the FIR and that he is ready to cooperate with the investigating agency and therefore, Mr. Hussain contended to allow this petition.

On the other hand, Mr. K.K. Parasar, learned Addl. P.P. by producing the case diary before the Court submits that one apprehended accused, namely, Md. Sajiruddin Ahmed and other witnesses also stated that one Nandalal Jaisawal used to collect scrapped material from Amjad Khan and present applicant and therefore, Mr. Parasar has opposed the petition

Having heard the submission of learned Advocates of both sides, I have gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Parasar, learned Addl. P.P

Though the case diary indicates that one Nandalal Jaisawal has received scrapped materials from the present applicant, yet, there is no material to suggest that the present applicant has committed theft of the battery bank and terminal strip from the ATC site, (Global ID 553173), site name Garchuk and supplied the same to Nandalal Jaisawal.

Having regards to above, and also having regards to the nature and gravity of the offence and punishment prescribed for the same, custodial interrogation of

the applicant seems to be not warranted here in this Court and therefore, this court is inclined to extend the privilege of pre arrest bail to the applicant.

Accordingly, it is provided that in the event of arrest of the applicant, in connection with Garchuk P.S. Case No.239/2022, under Section 379 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 CJM, Kamrup, Amingaon without prior permission.

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

JUDGE

Pb/-

JUDGE

Comparing Assistant