

GAHC010259262023



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

Case No. : AB/3919/2023

RAJIBUL HAQUE
S/O JALAL UDDIN
VILL- HAHCHARA
P.S. BARPETA,
DIST. BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. N UDDIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

04.12.2023

Heard Mr. N. Uddin, learned counsel for the applicant and also heard Mr. P. Borthakur, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application, under Section 438 Cr.P.C. is preferred by the applicant, namely, Rajibul Haque, who has been apprehending arrest in connection with Baghbor P.S. Case No.74/2023, under Section 379/411 IPC, for grant of pre-arrest bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by ASI Kalyan Banik of Mandia Police Outpost on 11.11.2023. The essence of allegation made in the aforesaid FIR is that on 10.11.2023 during Naka checking the informant has apprehended one Truck, bearing Registration No.AS-28AC-0523 and during interrogation the driver of the vehicle, namely, Jamir Ali disclosed that he has been carrying betel nuts from Silchar to Baghbor in a secret chamber made in the aforementioned Truck and then during checking he has found 4 quintal 80 kg of betel nuts from the vehicle and seized the same in presence of witnesses.

4. Mr. Uddin, learned counsel for the applicant submits that the name of the applicant finds no mention in the FIR though the name of one Rajib Khan is reflected in the same and that the applicant is ready to cooperate with the investigating agency and therefore, Mr. Uddin contended to allow this petition.

5. On the other hand, Mr. P. Borthakur, learned Additional Public Prosecutor, has produced the case diary before this Court and submits that the I.O. has collected some materials in support of the allegation made in the FIR and that the applicant is involved in constructing one secret chamber in the truck for carrying the betel nuts and therefore, Mr. Borthakur has contended to dismiss the petition.

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. Borthakur, learned Additional P.P.

7. The case diary indicates that the I.O. has collected some materials in support of the allegation made in the FIR. However, considering the stage of investigation, custodial interrogation of the present applicant seems to be not warranted here in this case and therefore, this Court is inclined to allow this petition. It is provided that in the event of

arrest of the applicant, namely, Rajibul Haque, in connection with Baghbor P.S. Case No.74/2023, under Section 379/411 IPC, he shall be released on pre-arrest bail on his executing a bond of ₹ 50,000/- with one surety of the like amount to the satisfaction of the arresting authority. The above privilege is, however, subject to the following conditions:-

- (i) The applicant shall make himself available for interrogation by the Investigating Officer as and when required;
- (ii) 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
- (iii) The applicant shall not leave the jurisdiction of the learned C.J.M., Barpeta, without prior permission

8. In terms of above, this anticipatory bail application stands disposed of. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant