

GAHC020000702023



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

Case No. : AB/3/2023

SRI. OM PRAKASH GUPTA
S/O BAIDHNATH GUPTA
R/O GRAMSALEMPUR
P.S. PIPRAKOTHI
DIST. MOTIHARI BIHAR

VERSUS

THE STATE OF NAGALAND
NAGALAND KOHIMA

Advocate for the Petitioner : Dr N DEKA

Advocate for the Respondent : GOVT ADV NL

**BEFORE
HON'BLE MR. JUSTICE KAKHETO SEMA**

ORDER

Date : 03-04-2023

Heard Mr. Dr. N. Deka, learned counsel for the applicant and Mr. V. Zhimomi, learned P.P. for the State respondent.

2. This application has been filed under section 438 of the Code of Criminal Procedure seeking for pre-arrest bail in connection with Dimapur Sub-Urban P.S Case No. 07/2023 under section 364(A)/34 IPC.

3. The case was originally registered as Diphu P.S Case No. 101/22 u/s

364(A)/34 IPC, however as the place of occurrence of the crime fell within the jurisdiction of the Sub-Urban Police Station, Dimapur, the case was re-registered as Dimapur Sub-Urban P.S Case No. 07/2023 under section 364(A)/34 IPC on 23.01.2023, on the order passed by the learned Chief Judicial Magistrate, Dimapur vide order dated 12.01.2023.

4. The FIR dated 22.11.2022 was lodged by one Smti. Melina Englengpi before the Officer-in-Charge, Diphu Sadar Police Station, stating that her husband Sri. Hemari Rongphar and her father-in-law Sri Binaram Singnar after receiving a call from Sri. Niraj Kr. Ray, the business partner of her husband, proceeded to Dimapur and met Sri. Sri. Niraj Kr. Ray and one Om Prakash Gupta (present applicant) at the place called Thaiko village near Living Stone School. Both her husband and her father-in-law were however handed to some Naga people and they were informed that they will be released only after paying a sum of Rs. 43,00,000/- (Rupees Forty three lakhs) only to Sri. Niraj Kr. Ray, the business partner of her husband. The complaint further stated that Sri. Binaram Singnar, the father-in-law of the complainant was released to inform the complainant about the demanded money and the victim also called up his wife (complainant) to arrange for the demanded amount. The case was later on transferred to the Sub-Urban Police Station Dimapur, after ascertaining that the crime was committed in Dimapur, Nagaland.

5. The learned P.P. has placed the status report of the case submitted by the I.O.

6. A perusal of the status report shows that the victim Sri. Hemari Rongphar, husband of the complainant was rescued on 22.11.2022 from Thahekhu village by the Dimapur and Khat Khati Police. The report also states that Sri. Niraj Kr. Ray was arrested by the Police on 26.03.2023 and thereafter remanded to five days police custody for interrogation. During investigation, it was revealed that Sri. Hemari Rongphar and Sri. Niraj Kr. Ray are business partners and over their business transaction Sri. Hemari Rongphar has some dues to Sri. Niraj Kr. Ray. Investigation further reveal that the present applicant who is an acquaintance of Sri. Niraj Kr. Ray is involved with the underground faction of the NSCN-IM and it is the applicant who had handed over the victim Hemari Rongphar to the

said organization and demanded the ransom of Rs. 43,00,000/-. The I.O in the status report has also stated that the applicant is evading arrest and trying to manipulate the witnesses and providing details of the case to the members of the NSCN-IM who are involved in the instant case.

7. Dr. N. Deka, learned counsel for the applicant submits that the applicant has no hand in kidnapping and demanding ransom from the victim but he was implicated in the case solely because of his close acquaintance with the co-accused Niraj Kr. Ray. The learned counsel submits that he is ready and willing to appear before the Police and co-operate in the investigation of the case but he may be granted the protection of pre-arrest bail.

8. Mr. V. Zhimomi, the learned P.P on the other hand submits that the status report of the case submitted by the I.O. itself demonstrates that the applicant is involved in kidnapping and demanding ransom for releasing the victim in connivance with anti-social elements and therefore, the custodial interrogation of the applicant is absolutely necessary to unveil the crime and to arrest the persons involved in the case, who are still absconding. The learned P.P. further submits that the status report furnished by the I.O. itself reveals that the applicant is involved with a particular underground organization and trying to manipulate the witnesses and there is every possibility that the applicant will not co-operate with the investigation unless the custodial interrogation is allowed.

9. Heard the learned counsel for the parties and also perused the status report of the case furnished by the I.O. A reading of the status report prima facie shows that the applicant is involved in the kidnapping of the applicant and demanding ransom for the release of the victim. The applicant is charged under section 364A which is a heinous crime punishable with death, or imprisonment for life, and also be liable to fine. This Court therefore considering the facts and circumstances of the case and also taking into account that the offence charge against the accused is heinous deems it proper that the custodial interrogation of the applicant is necessary. In that view of the matter, the application filed by the applicant seeking for pre-arrest bail is accordingly rejected. The applicant shall surrender before the Police forthwith.

10. Application disposed.

Sd/-

JUDGE

Comparing Assistant