

GAHC040000152024



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

Case No. : AB/4/2024

Gora Paku
S/o Late Gora Pada, resident of Sangchang village, PO New Palin, Kra Daadi District,
AP

VERSUS

The State of Ap and Anr
represented by the PP 2:Gora rikam Bhai
Age: 0
Occupation

Advocate for the Petitioner : Sunil Mow

Advocate for the Respondent : P P of AP

BEFORE
HONBLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 24-01-2024

Heard Mr. R. Ingo, the learned counsel for the petitioner. Also
heard Mr. T. Ete, the learned Additional Public Prosecutor for the

State of Arunachal Pradesh.

This is an application under Section 438 Cr.P.C in connection with Niti Vihar P.S. Case No. 02/2024, under Sections 457/307/506 of the IPC, read with Section 27 of the Arms Acts, 1959.

Case diary has been received.

Heard the learned counsel for both the parties.

It is submitted by the learned counsel for the petitioner that after obtaining the interim pre-arrest bail, he appeared before the I.O in 3(three) occasion and cooperated with the investigation of this case. He is still ready and willing to cooperate with the further investigation of this case, if he is granted with the privilege of pre-arrest bail. Further, he submitted that the matter has also been settled outside the court and hence, custodial interrogation of the accused/petitioner is not at all required and accordingly, he prays to make the interim pre-arrest bail be made absolute.

The learned Additional Public Prosecutor, Mr. T. Ete submitted in this regard that from the 161 statement of the accused, it is very evident that he committed the offence and 5 Nos. of empty cartridges were also recovered from the place of occurrence. One fired empty cartridges and one fired bullet is also recovered from the place of

occurrence. Further, he submitted that accused has no licence in his name, however, the fire arm which has been used by him is under the license of his uncle. During the investigation till date, the uncle of the accused has also not appeared before the I.O nor the license is produced before the I.O. and thus, it cannot be believed that the fire arm which has been used by the accused/petitioner is actually licensed arm or not. So, considering the report of the I.O as well as the material available in the case diary, further custodial interrogation may be necessary for just and proper investigation of this case. Accordingly, the learned Additional Public Prosecutor has prayed to dismiss the petition.

After hearing the submissions made by the learned counsel for the parties, I have also perused the case diary and the statement made by the accused as well as progress made in the investigation by the I.O. which reveals that the accused admitted his guilt before the I.O. and it is the case, where one fire arm was used by the accused without having license and at the same time, it is seen that the uncle of the accused who is stated to be the license holder has not also appeared before the I.O to cooperate with the investigation of this case. Considering the entire circumstances of this case and incriminating materials in the case diary as well as the nature of offence, I find that there may be threat to the complainant side as

well as the society, if the accused is released on bail, who was involved in such kind of offences. And also the custodial interrogation may be necessary to unearth some other facts of this case and accordingly, I find that it is not at all a fit case to extend the privilege of pre-arrest bail to the accused petitioner. Accordingly, interim pre-arrest bail dated 08.01.2024, is hereby stands vacated.

Send back the case diary.

JUDGE

Comparing Assistant