

GAHC040001102024



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

Case No. : AB/17/2024

Sandip Kumar Das
S/o Khetra Mohan Das, resident of Village Jonai, Lakhi Nepali, PS Jonai, Dhemaji
District, Assam

VERSUS

The State of AP
represented by the PP of AP

Advocate for the Petitioner : Teto Taba

Advocate for the Respondent : P P of AP

BEFORE
HONBLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 19.02.2024

Heard Mr. T. Taba, learned counsel for the applicant. Also heard Ms. L. Hage, learned Addl. Public Prosecutor for the State.

The applicant, under Section 438 of the Criminal Procedure Code, 1973, has filed the present application for granting the privilege of pre-arrest bail to the applicant, namely, *Shri Sandip Kumar Das*, who has been

apprehending arrest in connection with Daporijo P.S. Case No. 5/2024, under Section 420 of the Indian Penal Code.

The copy of the updated Case Diary is placed before this Court.

The First Information Report (FIR) filed by one Smti Yaji Ebia, on 12.01.2024, leveling an allegation against the applicant that he had promised to supply a Crusher Machine along with its accessories to her husband and accordingly, her husband had paid an amount of Rs. 28,50,000/- (Twenty Eight Lakhs and Fifty Thousand). It was further alleged that a further sum of Rs. 7,50,000/- (Seven Lakhs and Fifty Thousand), purportedly for the GST clearance was demanded. It is also stated in the said FIR that the person to whom the payment was made is now not traceable and have even switched off their mobile phones. On receipt of the said FIR, the Police of Daporijo P.S. had registered a case being Daporijo P.S. Case No. 5/2024, under Section 420 of the Indian Penal Code.

The stand of the applicant in the present case is that he has been wrongly implicated in the FIR dated 12.01.2024 and the steps as taken by the applicant in the matter was so done basing on the instructions of one Madhav Gogoi. The amount as transferred by the husband of the informant was received in the account of the applicant as per the request of said Madhav Gogoi, which amount was purportedly returned by the applicant to said Madhav Gogoi.

It is the further contention of the applicant that the amount as deposited were withdrawn by him and handed over to one Santoosh Agarwala in cash. Thereafter, a "Deed of Machine Sale Agreement" was

executed on 26.12.2023 and on bonafide belief; the applicant had signed his name therein although the said agreement was shown to be executed between Shri Santoosh Agarwala and Ramesh Ebiya.

The Case Diary as produced was duly perused and the materials available therein reflect the complicity of the applicant in the offence alleged.

It is also seen that a notice under Section 41 (A) of the Cr.P.C., was sent to the applicant by the Investigating Officer, but the applicant has not co-operated with the Investigating authorities.

In view of the above position, this Court is of the considered view that it is not a fit case to extend the privilege of pre-arrest bail to the applicant and accordingly, this application, seeking pre-arrest bail does not merit acceptance and the same stands dismissed.

The copy of the Case Diary as produced by the learned Addl. Public Prosecutor is hereby returned back.

JUDGE

Comparing Assistant