

GAHC040003342024



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

Case No. : AB/55/2024

Hento Gamno
Son of Shri Pakni Gamno, resident of Jia Village, PO and PS Roing, Lower Dibang
Valley District, Arunachal Pradesh

VERSUS

The State of AP
represented by the PP of AP

Advocate for the Petitioner : Chorpok Modi

Advocate for the Respondent : P P of AP

BEFORE
HONBLE MR. JUSTICE BUDI HABUNG

ORDER

Date : 01.04.2024

Heard Mr. C. Modi, learned counsel for the petitioner. Also heard Ms. T. Jini, learned Additional Public Prosecutor for the State of Arunachal Pradesh.

2. Apprehending his arrest in connection with Shantipur P.S. Case No.

01/2024 under Sections 304/34 IPC, the accused/applicant, namely, **Shri Hento Gamno** has filed this bail application under Section 438 Cr.P.C seeking for grant of pre-arrest bail.

3. The case of the petitioner is that one Shri Raju Thakuri of village Borgorah of District Tinsukia, (Assam) had lodged a written FIR before the Officer-In-Charge, Police Station of Shantipur, Lower Dibang Valley, Arunachal Pradesh stating therein that his nephew, Dinesh Thakuri left Meka at around 8:00 PM after receipt of few calls in his phone. But he did not return on the said night. So, they searched for him and could not find. However, on the following morning on 29.01.2024 at around 9:00 AM, they found the victim in a bamboo field at Ethili (Jia). The victim was naked and he was serious injured condition.

4. Basing on the above FIR, the police have registered the case being Shantipur P.S. Case No. 01/2024 under Sections 307/34 IPC.

5. Apprehending his arrest, the accused/applicant filed pre-arrest bail before the learned Court of Session Judge, Tezu, however, the said bail application was rejected on 05.03.2024.

6. Finding no other alternate, the accused/applicant has filed this bail application for grant of pre-arrest bail. The case of the accused/applicant is that he is innocent of all allegations, however, since the police have issued the notice of appearance under Section 41A of Cr.P.C and has rejected his earlier bail; he

has a reasonable apprehension that he may be arrested by the police in connection with the above PS case, hence this application for grant of pre-arrest bail.

7. The Case Diary as called is produced.

8. Ms. T. Jini, learned Additional Public Prosecutor while referring to the records submits that the present anticipatory bail application was moved on 07.03.2024. During the pendency of this bail application, the accused/applicant has obtained a deed of compromise agreement purported to have been executed on mutual settlement of the case with the victim and his family on 14.03.2024. As per the said agreement, the parties have compromised and settled the case outside of the Court. The accused party is shown to have paid a compensation of Rs. 5,00,000/- (Rupees Five lakh) only and in return the victim has undertaken to withdraw the case from the police. Further, the accused; namely, **Shri Nanu Pertin** has admitted his guilt of commission of the alleged offence. But the accused Nanu Pertin is an absconder in the case. He had never appeared before the police. However, by producing the said deed of compromise agreement, the accused had obtained an interim anticipatory bail from this Court. And after obtaining an interim anticipatory bail, the accused/applicant had himself surrendered before the Investigating Officer of the Case on 23.03.2024. However, in his police statement under Section 161 Cr.P.C, the accused has again misled and given false statement before the police. He has stated that he does not know about the whereabouts of the co-accused, namely,

Shri Nunu Pertin whereas, they were together while executing the deed of agreement. The record further reveals that the accused/applicant had obtained the signature of the victim's side fraudulently and by using force and intimidation.

9. The learned Additional Public Prosecutor while vehemently objecting the grant of bail to the accused further submits that the accused/applicant is not co-operating with the Investigating Officer of the case. It is further contended that the accused person is also playing mischievous and intimidating the victim and other witnesses which is hampering the proper investigation of the case. There is also possibility of further hampering and tampering of the evidence of the case by the accused person if he is granted anticipatory bail and hence, prayed for rejection of the anticipatory bail and for recalling of the interim anticipatory bail granted to the accused/applicant.

10. Heard the learned counsel for the petitioner as well as the learned Additional Public Prosecutor for the State respondent. I have also perused the Case diary produced.

11. Upon consideration of the materials on records, prima facie there is an incriminating material found against the accused for commission of the alleged offence. Considering the serious nature of allegations and the offence committed by the accused/applicant and the incriminating materials found against him on record for commission of the alleged offence and subsequent development that there has been an inducement and intimidation shown against

them, the accused in my considered view does not deserved extension of the privilege of pre-arrest bail. Hence, I am not inclined to grant anticipatory bail to the accused/applicant at this stage.

12. Accordingly, this anticipatory bail application is rejected. The interim anticipatory bail granted to the accused earlier and his subsequent release stands recalled and cancelled.

13. In terms of the above, this anticipatory bail application stands rejected and disposed of.

Return the Case Diary immediately.

JUDGE

Comparing Assistant