

GAHC040007292024



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

Case No. : AB/96/2024

Rahul Mishra
Son of Late Kishor Mishra, resident of Bamungaon, Lokhra, PS Basistha,
Kamrup(M), Assam 781034

VERSUS

The State of AP
represented by the PP of AP

Advocate for the Petitioner : Dusu Rillung

Advocate for the Respondent : P P of AP

BEFORE
HONBLE MR. JUSTICE BUDI HABUNG

ORDER

Date : 17-06-2024

Heard Ms. M. Noshi, learned counsel for the petitioner. Also heard Mr. T. Ete, learned Additional Public Prosecutor for the State of Arunachal Pradesh.

2. This is an application filed by the accused/applicant Shri Rahul

Mishra, under Section 438 Cr.P.C., 1973, praying for grant of privilege of pre-arrest bail apprehending his arrest in connection with Banderdewa P.S. Case No. 20/2024, under Section 420/34 IPC, 1860.

3. The case of the petitioner is that, basing on the FIR dated 27.03.2024, lodged by one Shri Robin Cheda before the Officer-in-Charge Police Station Banderdewa, *inter alia*, alleging therein that he and one Mr. Rahul Ray and his associate had entered into an agreement for delivery of Dumper vehicle to him for which he had paid an amount of Rs. 4,00,000/-(Rupees Four Lakhs Only) to Mr. Rahul Ray and his associates. However, after receipt of the said money, they did not deliver the Dumper nor returned the money and they cheated him. Basing on the above FIR, the above Banderdewa P.S. Case No. 20/2024, under Section 420/34 IPC, 1860 was registered and arrested the accused Rahul Ray, who in his 161 statement has revealed the name of the present accused stating that the money paid by the informant was taken by the present accused, Rahul Mishra.

4. Basing on the statement of the accused Rahul Ray, the I.O. of the case had issued a notice under Section 41A Cr.P.C., 1973, against the present accused/applicant and hence, he has an apprehension that he may be arrested at any moment by the police in connection with the above Banderdewa P.S Case No. 20.2024, hence, this

application for pre-arrest bail.

5. Learned Additional Public Prosecutor has produced the case diary and the same has been perused.

6. Record reveals that earlier on 29.04.2024, the accused applicant was granted interim anticipatory bail with certain conditions by the Sessions Judge, Yupia. However, subsequently, vide an order dated 29.05.2024, the said interim bail granted to the accused was vacated and cancelled as the accused applicant failed to appear before the I.O. of the case as directed by the court. And this is the subsequent pre-arrest bail application filed under Section 438 Cr.P.C by the accused/applicant for grant for privilege of pre-arrest bail.

7. The record also reveals that the FIR was lodged on 27.03.2024 and basing on the statement of the co-accused, Rahul Ray, a notice under Section 41A of the Cr.P.C was issued to the present accused for his appearance. However, on 29.04.2024, the accused was protected by an interim anticipatory bail by the Sessions Judge, Yupia, thereafter, subsequently it was cancelled on 29.05.2024. It appears that after the cancellation of the interim anticipatory bail on 29.05.2024, the accused is not under protection by any interim bail and as such, the police was not prevented from arrest of the accused. However, the police have not taken any steps to arrest the accused applicant. It appears that the police are not interested to

arrest the accused at this stage.

8. Be that as it may, considering the nature of the offences alleged against the accused by the co-accused in his 161 Cr.P.C statement basing on which a notice under Section 41A of the Cr.P.C. has been issued against the present accused, I am of the considered opinion that the accused can be extended with the privilege of pre-arrest bail with certain conditions. Accordingly, the accused applicant, Shri Rahul Mishra is directed to surrender before the I.O of the case within 15 days from today. In the event of such surrender/and or arrest of the accused in connection with the Banderdewa P.S. Case No. 20/2024, under Section 420/34 IPC, 1860, he shall be released on bail on execution of a bail bond of Rs.50,000/- with 2(two) sureties of like amount, one of which shall be a local surety to the satisfaction of the arresting authority, subject to the following conditions;

1. The accused shall cooperate and appear before the I.O. of the case, as and when, called for;
2. The accused 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
3. The accused shall not commit an offence similar to the offence of which he is accused, or suspected of

commission.

9. With the above observations, the anticipatory bail application stands disposed of.

JUDGE

Comparing Assistant