

GAHC040012582023



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

Case No. : AB/60/2023

Sourav Sharma
S/o Biharilal Sharma, Address- Roing Hardware, Roing Town, P.O/P.S Roing, Lower
Dibang Valley District, Arunachal Pradesh. Ph. no. 91-9678944253

VERSUS

THE STATE OF AP
through the Public Prosecutor

Advocate for the Petitioner : Vijay Jamoh

Advocate for the Respondent : P P of AP

BEFORE
HONBLE MR. JUSTICE KARDAK ETE

ORDER

Date : 09.01.2024

Heard Mr. B. Padung, learned counsel for the applicant. Also heard Mr. G. Tado, learned Additional Public Prosecutor for the State of Arunachal Pradesh.

2. This is an application under Section 438 of Cr.P.C, 1973, for grant of

privilege of pre-arrest bail to the accused/applicant in connection with Itanagar P.S. Case No. 218/2023 under Section 420/506 IPC 1860.

3. An FIR was lodged by one Shri Leyu Chaktak Nilling, alleging that Shri Sourav Sharma the accused/applicant, has taken loan amounting to Rs. 34,00,000/- (Rupees Thirty-Four Lakhs) only from him for investment in the business and he had promised to return back the loan amount with profit. However, the applicant/accused instead of repaying the loan amount has threatened the informant with dire consequences. The informant alleged that such act on the part of the accused/applicant amounts to cheating and an intention to cause wrongful gain to himself and wrongful loss to the informant. Accordingly, the FIR was registered being Itanagar P.S. Case No. 218/2023 under Sections 420/506 IPC.

4. Mr. B. Padung, learned counsel for the applicant/accused submits that the accused/applicant was forced to signed deed of agreement for a loan of Rs. 2,50,00000/- (Rupees Two Crore Fifty Lakhs) from the informant and he had promised to pay Rs. 1,00,00000/- (Rupees One Crore). Subsequently, he was forced to issue a cheque amounting to Rs. 2,50,00000/- (Rupees Two Crore Fifty Lakhs) which has been dishonoured. Thereafter, informant has filed a complaint case before the Court under Section 138 of NI Act, 1881, which is pending before the Court of the learned Judicial Magistrate First Class, Yupia.

5. Mr. B. Padung, learned counsel submits that the case before the Court of

learned Judicial Magistrate First Class, Yupia is dishonour of cheque which was issued due to the pressure given by the informant of availing a loan from him which is a matter to be decided by the appropriate Court. During the pendency, false allegation has been levelled against the accused/applicant and the present FIR has been registered being Itanagar P.S. Case No. 218/2023 under Sections 420/506 IPC.

6. This court on 15.09.2023 granted interim pre-arrest bail to the accused/applicant which is as under: -

”In view of the documents available in the record and considering the submissions of the learned counsel for the parties, it is provided that in the event of arrest of the present accused/petitioner, namely, Shri Sourav Sharma in connection with Itanagar P.S Case No. 218/2023 under Sections 420/506 IPC, he Page No.# 3/3 shall be released on interim pre-arrest bail on executing a bond of Rs.10,000/- with a suitable surety of like amount to the satisfaction of the arresting authority subject to the following conditions:-

- 1) The petitioner shall appear before the I.O. within 7(seven) days from today.
- 2) The petitioner shall not directly, 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.

3) The petitioner shall not leave the territorial jurisdiction of the Itanagar P.S without prior permission of the Officer-in-Charge, concerned P.S/investigating officer.”

7. Mr. B. Padung, learned counsel submits that the accused/applicant has already appeared before the Investigating Officer and the Investigating Officer has recorded his statement and submitted the documents as sought for by the Investigating authority.

8. Mr. G. Tado, learned Additional Public Prosecutor has produced the Case Diary along with the latest status and submits that the accused/applicant has submitted the requirement documents which the Investigating Officer has sought for and his statement has already been recorded and he is co-operating with the Investigating authority. There is no requirement of custodial interrogation of the accused/applicant in the present case.

9. Perused the Case Diary and considered the submissions of the learned counsel for the parties. Considering that matter pertains to dishonouring of cheque which is pending before the Court of learned Judicial Magistrate First Class, Yupia, and coupled with the fact that the Investigating Officer has recorded the statement of the accused/applicant as well as the accused/applicant is co-operating with the Investigating authority, this court deem it appropriate to grant privilege of pre-arrest bail to the accused/applicant.

10. Accordingly, the interim pre-arrest bail granted by this Court on 15.09.2023 is made absolute with the following conditions: -

- (i) That 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.
- (ii) That the accused/applicant shall co-operate with the Investigating Officer and shall appear as and when called for.

11. Accordingly, this Anticipatory Bail application stands allowed and disposed of.

JUDGE

Comparing Assistant