

GAHC010000302024



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

Case No. : AB/33/2024

PRASANTA DOLEY
S/O LATE RAJANI DOLEY
R/O VILL- LOHITMUKH
P.S. GOHPUR
DIST. BISWANATH, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. U K BARMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 07.03.2024

Heard Mr. H. Ali, learned counsel for the applicant and Mr. B. Sarma, learned Additional Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with Halem P.S. Case No. 109/2023, under Sections 420/468/203/120[B]/419 of the IPC, this application under

Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicant namely, Prasanta Doley for grant of pre-arrest bail.

3. The said case has been registered on the basis of one F.I.R., lodged by SI Ripun Hazarika, on 12.12.2023. The essence of allegations made in the FIR is that on 10.12.2023, an accident took place between one Tractor and a Motor Cycle and as a result, one Rajen Dorjee suffered demise. When the investigation was going on, on 11.12.2023, a Constable namely, Prasanta Doley of SP Office along with two persons came to the police station and one person introduced himself as Nabam Doley, the owner of the Tractor. Later on, it came to light that he was not Nabam Doly, but, one Jayanta Kutum and he tried to mislead the police in the investigation of the case.

4. Mr. Ali, learned counsel for the applicant submits that the applicant had been granted the privilege of interim pre-arrest bail, vide order dated 08.01.2024, and pursuant to the said order, he had also appeared before the I.O. on 11.01.2024, but, his statement was not recorded by the I.O., and that the applicant is ready to cooperate with the investigating agency, and therefore, a contention is being made that the interim order dated 08.01.2024, may be made absolute in the same terms and conditions.

5. On the other hand, Mr. B. Sarma, the learned Addl. Public Prosecutor has produced the case diary before this Court and submits that the statement of the applicant is not available in the case diary and he had also obtained necessary instruction from the Officer-in-charge of Halem P.S. and as per his instruction, the applicant has not appeared before the I.O. However, Mr. Sarma, to a pointed query of this Court, submits that investigation is going on and the I.O. has collected some materials and also collected specimen handwriting of one Jayanta Kutum and forwarded the same to the FSL and the report is being

awaited.

6. Having heard the submission of learned Advocates of both sides, I have gone through the application and the documents placed on record and also perused the case diary with the assistance of Mr. Sarma, learned Addl. Public Prosecutor.

7. In view of the materials collected so far in the case diary and also in view of the progress of investigation, further custodial interrogation of the applicant, in the interest of investigation, seems not to be warranted here in this case.

8. Accordingly, the interim order dated 08.01.2024, is hereby made absolute in the same terms and conditions. It is further provided that the applicant shall appear before the I.O, if not appeared earlier.

9. In terms of above, this application stands disposed of.

10. Case diary be returned.

JUDGE

Comparing Assistant