

GAHC010012442024



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

Case No. : AB/175/2024

CHABITULLAH ALI
S/O JAHARUDDIN AHMED
R/O BANGALPARA
P.O. BHELKAR BAZAR
P.S. HAJO
DIST. KAMRUP, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR J ISLAM

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 21-02-2024

Heard Mr. J. Islam, learned counsel for the applicant and also heard Mr. B. Sarma, learned Addl. P.P. for the State respondent.

This application, under Section 438 Cr.P.C. is preferred by applicant, namely,

Chabitullah Ali who has been apprehending arrest in connection with Hajo P. S. Case No. 626/2023, under Sections 120 (B) 457/380/34 IPC for grant of pre-arrest bail.

The above noted case has been registered on the basis of one FIR lodged by one Chand Mahammad Talukdar on 27.10.2023.

The essence of allegation made in the FIR dated 27.10.2023 is that on 27.10.2023 at about 1-30 P.M. some unknown miscreant entered into his room located at his brick industry by breaking the window from the backside and stolen a sum of Rs.10,00,000/-.

Mr. Islam, learned counsel for the applicant submits that nowhere in the FIR, the name of the applicant finds mention but he apprehends arrest that one of his friends namely, Imail Hoque @ Mridul of Dampur was arrested in this case and he was also granted bail and therefore the present applicant apprehends that he may be arrested herein this case.

On the other hand, Mr. Sarma, learned Addl. P.P. submits that he has not received the case diary, but prays for granting him some more time to produce the case diary.

But it appears from the order dated 6.9.2024 that a last opportunity was given till today to produce the case diary but, Mr. Sarma has failed to produce the same.

In view of the above, this Court is inclined to hear and dispose of this petition on the basis of materials available on the record.

It appears from FIR dated 27.10.2023 that the name of the applicant finds no mention therein. It is mentioned in the FIR that some unknown miscreant entered into his brick industry and from the room of the informant, they have

stolen a sum of Rs. 10,00,000/- which was kept for labour payment.

In view of submission of learned Advocates of both sides and also in view of the nature and gravity of the offence and also on account of failing to produce the case diary before this Court, this Court is inclined to allow this petition.

Accordingly, it is provided that in the event of arrest of the applicant, in connection with Hajo P. S. Case No. 626/2023, under Sections 120 (B) 457/380/34 IPC, he shall be released on pre-arrest bail on his executing a bond of Rs.50,000/ with one surety of like amount to the satisfaction of the arresting authority.

The above privilege is, however, subject to the following conditions:

1. That the applicant shall make himself available for interrogation by the Investigating Officer as and when required;
2. That the 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. That the applicant shall not leave the jurisdiction of the learned Judicial Magistrate, Ist Class, Hajo without prior permission.

JUDGE

Comparing Assistant