

GAHC010018722024



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

Case No. : AB/254/2024

NOREN BARUAH
S/O- NILAKANTA BORUAH, R/O- JHANJI DHEKIAL GOAN, P.O. AND P.S.
AMGURI, DIST. SIVASAGAR, ASSAM

VERSUS

STATE OF ASSAM
REPRESENTED BY THE P.P., ASSAM

Advocate for the Petitioner : MR P KATAKI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

26.02.2024

Heard Mr. P. Kataki, learned counsel for the applicant and Mr. P.S. Lahkar, learned Additional Public Prosecutor for the State respondent.

2. This application, under Section 438 Cr.P.C. is preferred by applicant namely, **Noren Baruah**, who has been apprehending arrest in connection with **Borpathar P.S. Case no. 38/2023**, under Sections 120(B)/420/468/379/34 IPC for grant of pre-arrest bail.

3. It is to be noted that the above noted case has been registered on the

basis of an FIR lodged by ASI Albertius Toppo, on 22.09.2023. The essence of allegation made in the FIR is that on the same day, at about 10:30 am, during the naka checking, on NH 37, at Khakrajan checking point, they have intercepted one Truck bearing registration No. AS-03-BC-8888 (LPT Truck) and on checking, they have found 300 bags of inorganic fertilizer and 100 bags of flour and during interrogation, the Driver of the vehicle namely, Rokib Ali and helper namely, Ranjan Bhuyan disclosed that they had loaded the inorganic fertilizers at Amguri, Sivasagar and transported it to the Dimapur, Nagaland.

4. Mr. Kataki, learned counsel for the applicant submits that this Court was pleased to grant interim protection to the applicant, vide order dated 05.02.2024, and pursuant to the said order, the applicant had appeared before the IO and has been cooperating with the investigating agency. Mr. Kataki further submits that though the applicant had appeared before the IO, yet, the IO has chosen not to record his statement. Mr. Kataki also submits that the custodial interrogation of the applicant may not be required in the interest of investigation and therefore, it is contended to make the interim order dated 05.02.2024, absolute in the same terms and conditions.

5. On the other Mr. Lahkar, learned Additional Public Prosecutor by producing the case diary before this court, submits that there is no indication in the case diary as regard the appearance of the applicant before the IO and recording of his statement and as such, a direction may be issued to the applicant to appear before the IO again and to get his statement recorded.

6. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition as well as the documents placed on record and also perused the Case Diary with the assistance of learned Additional Public Prosecutor.

7. The case diary indicates that the IO has collected some incriminating materials in respect of the allegation made in the FIR. However, in view of the submissions of learned counsel for both the parties and also considering the fact that the applicant has been cooperating with the investigating agency and that of the progress of investigation, this Court is of the view that custodial interrogation of the applicant seems to be unwarranted here in this case. And therefore, this Court is inclined to make the interim order dated **05.02.2024, absolute** in the same terms and condition.

8. In terms of above this AB stands disposed of.

9. The case diary be returned.

JUDGE

Comparing Assistant