

GAHC010018762024



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

Case No. : AB/242/2024

POLASH JYOTI BORUAH
S/O- SRI KRISHNA BORUAH, A RESIDENT OF VILL.- NO.2 CHARAIMARI,
MOUZA- GHILADHARI, P.O. KACHAMARI, P.S. MERAPANI, DIST.-
GOLAGHAT, (ASSAM)

VERSUS

THE STATE OF ASSAM
TO BE REPRESENTED BY THE LD. PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. M A I HUSSAIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 08.04.2024

Heard Mr. M.A.I. Hussain, learned counsel for the applicant and R.J. Baruah, learned Additional Public Prosecutor for the State respondent.

2. This application, under Section 438 Cr.P.C. is preferred by the applicant, namely, Sri Polash Jyoti Boruah, who has been apprehending arrest in

connection with Golaghat P.S. Case no. 208/2023, under Sections 120(B)/406/468/419/420/34 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 one Trallukya Das, Area Business Manager, Mahindra & Mahindra Financial Services Ltd on 7.7.2023. The essence of allegation made in the FIR dated 7.7.2023 is that one Shasankar Handique serving with Mahindra Finance alongwith with one dealer Sales person namely Md. Muktar Hussain had some conspiracy by forging and fabricating some documents of borrowers, co-borrowers and guarantors and got the loan sanctioned and thereafter delivered 27 numbers of vehicles to the borrowers who have initially paid monthly instalments to the Company, but later on, they withheld payment and thereby, they have cheated the Company and caused heavy loss to the Company.

4. Mr. Hussain, learned counsel for the applicant submits that the applicant had been granted the privilege of interim pre-arrest bail, vide order dated 05.02.2024, and pursuant to the said order, he had also appeared before the I.O. and his statement had also been recorded, and he has been cooperating with the investigating agency, and therefore, a contention is being made that the interim order dated 05.02.2024, may be made absolute in the same terms and conditions.

5. On the other hand, Mr. Baruah, the learned Addl. Public Prosecutor has produced the case diary before this Court and confirmed appearance of the applicant before the I.O. concerned. However, Mr. Baruah submits that the I.O. has collected sufficient incriminating materials against the present applicant and therefore, Mr. Baruah has opposed the application.

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. Baruah, learned Addl. Public Prosecutor.

7. It appears that vide order dated 05.02.2024, this Court was pleased to extend interim protection to the applicant and thereafter, he had appeared before the I.O. and cooperating with the investigating agency. Though the I.O. has collected some incriminating materials against the present applicant, as it appears from the case diary as well as from the submission of Mr. Baruah, however, in view of the cooperation being extended by the applicant and in view of the stage of investigation, his custodial interrogation, in the interest of investigation, seems not to be warranted here in this case.

8. Accordingly, the interim order dated 05.02.2024, is hereby made absolute in the same terms and conditions.

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

10. Case diary be returned.

JUDGE

Comparing Assistant