

GAHC010020152024



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

Case No. : AB/251/2024

SAHIBUR RAHMAN
S/O- LT. AINUDDIN, R/O VILL NIZ DAMUGAO PS PANBARI DIST CHIRANG
BTR ASSAM

VERSUS

THE STATE OF ASSAM
REP BY ADVOCATE FOREST (WILDLIFE)

Advocate for the Petitioner : MR. S C BISWAS

Advocate for the Respondent : SC, FOREST

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

19.06.2024

Heard Mr. S. C. Biswas, learned counsel for the petitioner. Also heard Mr. I. Borthakur, learned counsel appearing on behalf of Mr. D. Gogoi, learned Standing counsel, Forest Department.

This application filed under Section 438 of Code of Criminal Procedure 1973, praying for grant of pre-arrest bail to the accused/petitioner, who is apprehending arrest in connection with OR No. PB/04 of 2023, under Sections 9/35 (6 & 8)/39(1)/44/49B/52/57 of Wildlife (Protection) Act, 1972 arising out of the complaint made by the Forest Officer Panbari Range, Manash Tiger Reserve.

The Case Diary has been received and I have perused the same.

It is submitted by the learned counsel for the petitioner, Mr. Biswas that in pursuant to order dated 22.04.2024, he has already filed an additional affidavit in regards to identity of the present petitioner. He further submitted that one Safiur Rahman, S/o Lt. Sarittullah Seikh of village No.2 Bogitara, Police Station Panbari, District Chirang, Assam has already been arrested in connection with this case. But, subsequently, the police is searching for the petitioner and hence, there is an apprehension of arrest and accordingly, he filed the present anticipatory bail application and he submitted that the petitioner is ready and willing to co-operate with the I.O. in the further investigation of the case, if he is granted with the privilege of interim pre-arrest bail.

In this context, Mr. Borthakur, learned counsel for the respondent has

submitted that there is no ground for filing the present petition nor it can be a case of false identity as the main accused or named accused has already been arrested in connection with this case. He also submitted that no notice was issued against the present petitioner under Section 41 of Cr.P.C and thus, there is no cause of action against the present petitioner to entertain the present anticipatory bail application, whereby, he is seeking privilege of pre-arrest bail.

In this context, Mr. Biswas, learned counsel for the petitioner has submitted that the petitioner is ready to appear before the authority concerned, if his presence will be required, though, he is no way connected in the alleged offence.

Considering the submissions made by the learned counsels for both sides, it is seen that there is no cause of action against the present petitioner nor he was served with a notice under Section 41 of Cr. P.C. and thus, his presence is not at all required. More so, it is not a case of mistaken identity as the named accused has already been arrested in connection with this case. Thus, from the entire facts and circumstance of the case, the present petition is not at all maintainable. However, the petitioner may co-operate the IO in further investigation of the case, if his co-operation is required in connection with the present case.

With above observation, this anticipatory bail application stands disposed of.

JUDGE

Comparing Assistant