

GAHC010022952024



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

Case No. : AB/265/2024

RAHMAT ALI
S/O- INNAS ALI, R/O- VILL- KHALIHAMARI, P.S. SAMAGURI, DIST.-
NAGAON (ASSAM)

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MS. G BORAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 15.02.2024

Heard Ms. G. Borah, learned counsel for the applicant. Also heard Ms. A. Begum, learned Addl. Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with Uluani P.S. Case No. 55/2023, under Section 380 of the IPC, this application under Section 438 Cr.P.C. has been preferred by the applicant, namely, Rahmat Ali, for grant of pre-arrest bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by one Swapan Das on 01.11.2023. The essence of allegation made in the FIR dated 01.11.2023, is that on that day, at around 2 p.m., some unknown person committed theft of two cattle from his cow shed in a Magic vehicle, bearing Registration No. AS-02DC-0739, and he has also seen one red/white KTM bike fleeing away from the place of occurrence.

4. Ms. Borah, learned counsel for the applicant submits that the applicant is innocent and no way involved in the offence alleged in the FIR, and that he is the owner of a KTM bike, bearing Registration No. AS-12V-8262, and he has not been implicated in the FIR and no registration number of his KTM bike was mentioned in the FIR, and he is ready to cooperate with the investigating agency, and therefore, it is contended to allow the application.

5. On the other hand, Ms. A. Begum, learned Addl. Public Prosecutor has produced the case diary before this Court and submits that though the name of the applicant has not been whispered by any of the accused or witnesses before the I.O., yet he is also involved in the offence alleged in the FIR, and therefore, it is contended to dismiss the application.

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

7. The case diary indicates that the I.O. has examined some witnesses and collected some materials in support of the allegation made in the FIR.

8 And in view of the materials collected so far in the case diary against the present applicant, this Court is of the view that his custodial interrogation may not be required in the interest of investigation, and therefore, this Court is

inclined to allow the application.

9. Accordingly, it is provided that in the event of arrest of the applicant in connection with Uluani P.S. Case No. 55/2023, under Section 380 of the IPC, he shall be released on pre-arrest bail on 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:

- (i) The applicant shall make himself available for interrogation by the Investigating Officer as and when required;
- (ii) 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
- (iii) The applicant shall not leave the jurisdiction of the learned SDJM(M), Kaliabor, without prior permission.

10. In terms of above, the application stands disposed of.

11. Case diary be returned.

JUDGE

Comparing Assistant