

GAHC010028762024



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

Case No. : AB/327/2024

JOYNUL HAQUE LASKAR
R/O VILL- SAHABAD PART-I
P.O. SAHABAD, P.S. LALA
DIST. HAILAKANDI, ASSAM
PIN-788163

VERSUS

THE STATE OF ASSAM
REP BY THE LEARNED PP, ASSAM

Advocate for the Petitioner : MR H R A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

02.05.2024

Heard Mr. M.J. Quadir, learned counsel for the petitioner and Mr. B.B. Gogoi, learned Additional Public Prosecutor for respondent State of Assam.

2. By this application under Section 438, Code of Criminal Procedure, 1973 [CrPC], the

petitioner viz. Joynul Haque Laskar has approached this Court seeking the benefit of pre-arrest bail, apprehending his arrest, in connection with Lala Police Station Case no. 294/2023 registered under Section 120B/420/379 of the Indian Penal Code [IPC].

3. The said case has been registered on the basis of a First Information Report [FIR], lodged by Head Constable, Abdul Kadir Laskar, on 13.11.2023. The essence of allegations made in the FIR is that acting on a tip off, the informant along with his staff intercepted two vehicles, bearing registration no. AS-26/AC-1337 and AS-26/C-9527, which were being parked nearby Gulu Haji Brick field NH-154 Mahmodpur Part-II. After checking the vehicle, bearing registration no. AS-26/AC-1337, they have recovered 60 nos. of gunny bags filled with suspected to be foreign origin betel nuts and 312 nos. of sapeeab litchi [cold drink] cartoons and in the other vehicle, bearing registration No. AS-26/C-9527, they have recovered 42 nos. of gunny bags filled with suspected to be foreign origin betel nuts and 615 nos. of sapeeab litchi [cold drink] cartoons.

4. The petitioner was provided interim protection by an order dated 13.02.2024 with the further direction to him to appear before the Investigating Officer [I.O.] of the case with the following conditions :-

- [i] that the applicant shall make himself available for interrogation by the Investigating Officer as and when required;
- [ii] 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
- [iii] that the applicant shall not leave the jurisdiction of the learned Chief Judicial Magistrate, Hailakandi, without prior permission.

5. Mr. Quadir, learned counsel for the petitioner has submitted that pursuant to the order dated 13.02.2024, the petitioner had appeared before the I.O. of the case on 27.02.2024 and, thereby, joined the investigation.

6. Mr. Gogoi, learned Additional Public Prosecutor has submitted, on instruction, that the I.O. of the case after completion of investigation, has already submitted a charge sheet under Section 173[2], CrPC vide Charge Sheet no. 26/2024 dated 28.02.2024.

7. As the petitioner was provided interim protection by order dated 13.02.2024 whereafter he joined the investigation and the charge sheet has been submitted after completion of investigation thereafter, this application preferred under Section 438, CrPC is closed providing that the benefit of pre-arrest bail under Section 438, CrPC granted in favour of the petitioner by order dated 13.02.2024 shall be in effect till his appearance before the learned jurisdictional trial court on the date fixed for his appearance in the summons, served upon him, to be issued by the learned jurisdictional trial court. It is observed that upon his such appearance before the learned jurisdictional trial court, the petitioner will be at liberty to prefer an application seeking regular bail and in the event such an application is preferred by the petitioner, the learned jurisdictional trial court will consider the same on its own merits and in accordance with law.

JUDGE

Comparing Assistant