

GAHC010028952024



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

Case No. : AB/330/2024

DOWLAT MECH
R/O DORIKAPAR NAWJAN GAON, P.O.- NAMTAIL PATHER, PIN- 785640,
DISTRICT- SIVASAGAR, ASSAM.

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. P BORDOLOI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 12.02.2024

Heard Mr. P. Bordoloi, learned counsel for the applicant. Also heard Mr. B. Sarma, learned Addl. Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with CS Case No. 97145/2023, under Sections 406/420/120(B)/34 of the IPC, this application under Section 438 Cr.P.C. has been preferred by applicant, namely, Dowlat Mech, for grant of

transit pre-arrest bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of a complaint lodged by M/s Cholamandalam Investment and Finance Co. Ltd., Chennai, represented by Sri Sumit Ghosh, through Power of Attorney.

4. Mr. Bordoloi, learned counsel for the applicant submits that the applicant had availed a loan of Rs. 4,31,059/- from the complainant company, and he had repaid some of the amount. Thereafter, on 13.09.2023, he received a summon from the Court of the learned Metropolitan Magistrate, 15th Court, Calcutta along with a complaint in Case No. CS/97145/2023, where it has been alleged that the applicant had wilfully neglecting to repay an outstanding amount of Rs. 2,22,876.00/-, with interest and charge, and he has to appear before the learned Court on 12.10.2023. Then on receipt of the same, he approached the Manager of the complainant company at Sivasagar who asked him to pay half of the amount and that he paid a sum of Rs. 1,15,000/-. Thereafter, he paid another sum of Rs. 25,000/- and that thereafter, the learned Court below has issued non-bailable warrant of arrest against the applicant on 12.10.2023.

5. Mr. Bordoloi further submits that the applicant will appear before the Court of learned Metropolitan Magistrate, 15th Court, Calcutta, and that he may be granted transit anticipatory bail so as to enable him to appear before the learned Court below on or before the next date.

6. Mr. B. Sarma, the learned Addl. Public Prosecutor submits that having considered the fact that the applicant has already paid the substantial amount of the loan availed by him, he may be allowed to appear before the Court of learned Metropolitan Magistrate, 15th Court, Calcutta.

7. Having heard the submission of learned Advocates of both sides, I have carefully gone through the application and the documents placed on record.

8. It appears that though the case has been registered under Sections 406/420/120(B)/34 of the IPC, yet, the matter appears to be of in civil nature as the dispute relates to non-payment of loan amount by the applicant.

9. Since the applicant undertakes to appear before the learned Court below on or before the next date fixed, this Court is inclined to extend the privilege of transit pre-arrest bail to the applicant.

10. Accordingly, it is provided that in the event of arrest of the applicant in connection with CS Case No. 97145/2023, under Sections 406/420/120(B)/34 of the IPC, he shall be released on transit pre-arrest bail for a period of 25 days from today, 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 appear before the Court of learned Metropolitan Magistrate, 15th Court, Calcutta, on or before the next date.

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

JUDGE

Comparing Assistant