

GAHC010031862024



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

Case No. : AB/393/2024

RINKY AHMED
D/O FAKHRUDDIN AHMED
VILL- DAMPUR
P.O. DAMPUR
P.S. HAJO
PIN-781102
DIST. KAMRUP, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR P K DAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 10.04.2024

Heard Mr. M. Baruah, learned counsel for the applicant. Also heard Mr. R.J. Baruah, learned Addl. Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with the Bhangagarh P.S. Case No.

105/2023, under Sections 406/420 of the IPC, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicant namely, Rinky Ahmed for grant of pre-arrest bail.

3. It is to be noted here that the said case has been registered on the basis of one F.I.R., lodged by one Jayanti Boro, on 27.03.2023. The essence of allegation made in the FIR is that the informant has an account at SBI, Amingaon Branch and on 22.03.2023, she had visited the bank to avail a loan and from the executive of the bank she came to know that a sum of Rs. 2,840/- is being deducted every month from her bank account and she also came to know that the said loan has been availed by Shree Govinda Exterprise located at Lakhra, for purchasing a motor cycle, TVS NTOQR, bearing registration No. AS01-EN-6531, and total amount of Rs. 73,840/- has been misappropriated from her account.

4. Mr. Baruah, learned counsel for the applicant submits that this is the second pre-arrest bail application preferred by the applicant and the first one, being AB No. 204/2024 was dismissed by this Court, vide order dated 30.01.2024, after perusing the case diary. Mr. Baruah further submits that the ground for filing this second application is that the complainant is about 64 years old and present applicant is about 29 years old and as such, there is no possibility of impersonating the aforementioned complainant by the applicant and this aspect was not brought to the notice of this Court on earlier occasion. Besides, Mr. Baruah submits that the applicant has a nine months old baby. Mr. Baruah also submits that the applicant has received one notice under Section 41A Cr.P.C. and pursuant to the said notice, she had appeared before the I.O. on 12.03.2024 and cooperating with the investigating agency, and therefore, it is contended to allow the application.

5. On the other hand, Mr. R.J. Baruah, the learned Addl. Public Prosecutor has produced the case diary before this Court and submits that the I.O. has collected sufficient incriminating materials against the applicant and that after perusing the case diary, the earlier pre-arrest bail application was dismissed by this Court, and therefore, Mr. Baruah has contended to dismiss the present application as no change in circumstance has been shown to have taken place in favour of the applicant.

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 Mr. R.J. Baruah, learned Addl. Public Prosecutor and also perused the notice under Section 41A Cr.P.C. produced before this Court by the learned counsel for the applicant.

7. It appears that the said notice was issued on 07.03.2024 and the applicant had appeared before the I.O. on 12.03.2024. Since the applicant has been extending cooperation with the investigating agency, her custodial interrogation seems to be not warranted here in this case and therefore, this Court is inclined to allow the application.

8. Accordingly, it is provided that in the event of arrest of the applicant in connection with Bhangagarh P.S. Case No. 105/2023, under Sections 406/420 of the IPC, she 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 CJM, Kamrup(M), Guwahati, without prior permission.

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

10. Case diary be returned.

JUDGE

Comparing Assistant