

GAHC010038872024



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

Case No. : AB/484/2024

FAKAR UDDIN ALI AHMED
S/O RUSMAT ALI,
VILL.- TATIKATA PATHER, P.O.- MOIRABARI, P.S.- MOIRABARI, DIST.-
MORIGAON, ASSAM, PIN- 782126.

VERSUS

THE STATE OF ASSAM
TO BE REP. BY P.P., ASSAM.

Advocate for the Petitioner : MR. Z HAMMAD

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 04.03.2024

Heard Mr. Z. Hammad, learned counsel for the applicant. Also heard Mr. P.S. Lahkar, learned Addl. Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with Moirabari P.S. Case No. 25/2024, under Sections 120B/420/406/384/34 of the IPC, this application under Section

438 of the Code of Criminal Procedure, 1973, is preferred by applicant, namely, Fakar Uddin Ali Ahmed, 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 Moneswar Borah, A.S.I. of Police, Moirabari P.S. on 11.02.2024. The essence of allegation made in the FIR dated 11.02.2024, is that on 10.02.2024, at about 2 p.m., acting on a tip off, the informant had conducted preliminary enquiry in respect of money lending business and during enquiry, he came to know that one Mofiz Uddin, Shohidul Islam and Nowshad Ali are involved in running money lending business for a long time and they have been harassing various people of the village, demanding higher interest upon the money lent by them, and that they have no permission from the Government for such business.

4. Mr. Hammad, learned counsel for the applicant submits that the name of the applicant finds no mention in the FIR dated 11.02.2024, and that he is no way involved with the offence alleged 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, Mr. P.S. Lahkar, learned Addl. Public Prosecutor has produced the case diary before this Court and submits that the I.O. has collected some materials in support of the allegation made in the FIR and that the applicant had appeared before the I.O. and his statement had already been recorded and the same is available in the case diary. However, Mr. Lahkar has opposed 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 Mr. Lahkar, learned Additional

Public Prosecutor.

7. It appears that the applicant had appeared before the I.O. and his statement had also been recorded and the same goes to show that the applicant has been cooperating with the investigating agency. That being so, his custodial interrogation may not be required in the interest of investigation, 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 Moirabari P.S. Case No. 25/2024, under Sections 120B/420/406/384/34 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 C.J.M., Morigaon without prior permission.

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

10. Case diary be returned.

JUDGE

Comparing Assistant