

GAHC010041062024



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

Case No. : AB/523/2024

SABIR AHMED BARBHUIYA
S/O MOKROM ALI BARBHUIYA
R/O VILL- MOHANPUR PART-II
P.O. AND P.S. KATIGORAH
DIST. CACHAR, ASSAM
PIN-788805

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MS. S B CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 13.03.2024

Heard Ms. S.B. Choudhury, learned counsel for the applicant. Also heard Mr. B. Sarma, learned Addl. Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with Ramnathpur P.S. Case No.

185/2023, under Sections 120B/379/411/420 of the IPC, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicant, namely, Sabir Ahmed Barbhuiya 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 UBC Taj Uddin of Ramnathpur P.S. on 27.11.2023. The essence of allegation made in the FIR dated 27.11.2023, is that on 26.11.2023, acting on a tip off, the informant along with other staff, conducted naka-checking at Ramnathpur P.S. check gate on NH06 and at about 1:30 p.m., they intercepted one twelve wheeler truck, bearing Registration No. AS-01-DD-2565, which was coming from Mizoram side towards Gharmura side and having seen the police signal, the driver of the vehicle fled away and on checking the vehicle, they found 47 bags of suspected Burmese betel nuts.

4. Ms. Choudhury, learned counsel for the applicant submits that the applicant is the registered owner of the vehicle, bearing Registration No. AS-01-DD-2565, and that the applicant had applied for releasing the said vehicle in his custody and the learned Court below, vide order dated 10.01.2024, had granted the custody of the vehicle to the present applicant, and that the applicant is innocent and without his knowledge, the driver of the vehicle had carried the suspected Burmese suparis in the said vehicle, and that the applicant is ready to cooperate with the investigating agency and therefore, it is contended to allow the application.

5. On the other hand, Mr. B. Sarma, the learned Addl. Public Prosecutor has produced the case diary before this Court and submits that the materials collected so far in the case diary do not reveal complicity of the present applicant with the offence alleged in the FIR.

6. Having heard the submission of learned Advocates of both sides, I have

gone through the application and the documents placed on record and also perused the case diary with the assistance of Mr. B. Sarma, learned Addl. Public Prosecutor.

7. The case diary indicates that some witnesses have been examined by the I.O., yet the materials collected so far are inadequate to show the complicity of the present applicant with the offence alleged in the FIR, and therefore, custodial interrogation of the applicant seems not to be warranted here in this case and accordingly, 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 Ramnathpur P.S. Case No. 185/2023, under Sections 120B/379/411/420 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., Hailakandi, without prior permission.

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

11. Case diary be returned.

JUDGE

Comparing Assistant