GAHC010043172024

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

Case No. : AB/516/2024

BABUL KUMAR PHUKAN
S/O LATE TANKESWAWR PHUKAN
RESIDENT OF VILLAGE BIJIBARI, PO AND PS LALUK, DIST LAKHIMPUR, ASSAM 784160

VERSUS

THE STATE OF ASSAM
REP BY THE PP ASSSAM

Advocate for the Petitioner : MR. J AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 01.03.2024

Heard Mr. J. Ahmed, learned counsel for the applicant and Mr. P.S. Lahkar, learned Addl. Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with Laluk P.S. Case No. 27/2024, under Sections 120B/420/406/506/387 of the IPC, read with Section 7C(2) of the Assam Money Lenders' (Amendment) Act, 1968, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicant, namely, Babul Kumar Phukan, 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 Putali Bora on 19.02.2024. The essence of allegation made in the FIR dated 19.02.2024, is that the informant had taken a sum of Rs. 6,00,000/-, with interest @ Rs. 30,000/- per month, from one Sudhan Roy, in the year 2022, and the he had taken blank cheques with her signature, bearing Nos. 881150, 881151 and 881152, of her account maintained in the Punjab National Bank and from 2022 onwards, she has paid a sum of Rs. 2,50,000/- only being the interest, through cheque. But, on account of some difficulties, she could not pay the amount for the month of October, 2023, for which she was being threatened by him and as such, she has been suffering from mental agony, and that he also threatened that he will take her land on account of failing to pay the amount and many others of Laluk are also involved in similar business.

4. Mr. Ahmed, learned counsel for the applicant submits that the name of the applicant finds no mention in the FIR, but he is being searched by police as in the FIR dated 19.02.2024, and that the informant has stated that apart from Sudhan Roy, more other persons are involved with the similar offences as alleged in the FIR, and therefore, many persons are being arrested by police and therefore, the applicant also apprehends arrest, and that the applicant is a renowned businessman of the locality 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 there is no whisper in the statement of any witnesses examined by the I.O. against the present applicant.

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. Lahkar, learned Additional Public Prosecutor.

7. In view of the materials collected so far in the case diary and also in view of the submission of learned Advocate of both sides, custodial interrogation of the applicant seems not to be 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 Laluk P.S. Case No. 27/2024, under Sections 120B/420/406/506/387 of the IPC, read with Section 7C(2) of the Assam Money Lenders' (Amendment) Act, 1968, 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., North Lakhimpur, without prior permission.

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

10. Case diary be returned.

JUDGE

Comparing Assistant