

GAHC010047722024



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

Case No. : AB/571/2024

HIMANGSHU BARUAH
SON OF SRI DEBEN BARUAH, RESIDENT OF RAMGAON, SAMATIPARA
P.O.- BURHI NAGAR, POLICE STATION- SIPAJHAR, DIST.- DARRANG, PIN-
784147, ASSAM.

VERSUS

THE STATE OF ASSAM
REPRESENTED BY P.P., ASSAM

Advocate for the Petitioner : MR. M SMITH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

06.03.2024

Heard Mr. M. Smith, learned counsel for the accused and Ms. A. Begum, learned Additional Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with **Mangaldoi P.S. Case No. 30/2024**, under Sections 379/411/34 of the IPC, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicant namely, **Sri Himangshu Baruah** 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 Faruk Ahmed, on 10.02.2024. The essence of allegation made in the aforesaid FIR is that on 10.02.2024, 5 (five) persons, namely, Nagen Deka, Tridip Kalita, Dibyajyoti Baruah, Bhaskar Deka and Naved Ali have stolen mount of Jio Tower (MAOI6017) and while Nagen Deka, Tridip Kalita, Dibyajyoti Baruah and Bhaskar Deka were selling the same at Baba Trader & Copper, then they were caught red-handed.

4. Mr. Smith, learned counsel for the applicant submits that one of the co-accused namely, Nausad Ali @ Naved Ali has already been enlarged on bail by this Court, vide order dated 01.03.2024, in BA No. 588/2023. Mr. Smith further submits that the applicant is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, Ms. Begum, learned Additional Public Prosecutor, has opposed the bail petition and has prayed for calling for the case diary. However, Ms. Begum fairly submits that one of the co-accused has already been enlarged on bail by this Court, vide order dated 01.03.2024, in BA No. 588/2023.

6. Having heard the submissions of learned counsel for both the parties, I have carefully gone through the petition and the documents placed on the record.

7. It appears that one of the co-accused has already been enlarged on bail by this Court, vide order dated 01.03.2024, in BA No. 588/2023.

8. Having regards to above and also having regards to the nature and gravity of the offence and the punishment prescribed for the same as well as the submissions so advanced by learned counsel for both the parties, this Court is inclined to extend the privilege of pre-arrest bail to the applicant.

9. Accordingly, it is provided that in the event of arrest of the applicant, in connection with **Mangaldoi P.S. Case No. 30/2024**, under Sections 379/411/34 of the IPC, he shall be enlarged on pre-arrest bail on executing a bond of Rs. 50,000/- only with one surety of like amount to the satisfaction of the arresting authority.

10. The above privilege is, however, subject to the following conditions:

(i) that the applicant shall make himself available for interrogation by the Investigating Officer as and when required;

(ii) that 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) that the applicant shall not leave the jurisdiction of the learned **Chief Judicial Magistrate, Darrang, Mangaldoi**, without prior permission.

11. In terms of above, this AB stands disposed of, at this motion stage itself.

Comparing Assistant

JUDGE