

GAHC010064352024



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

Case No. : AB/810/2024

PARAMA DEKA
SON OF DANDIRAM DEKA,
R/O BARHAMPUR, PS JAGIROAD, DISTRICT MORIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
TO BE REP BY THE LEARNED PP, ASSAM

Advocate for the Petitioner : MR. S M MOLLAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 22-04-2024

Heard Mr. S.M. Mollah, learned counsel for the petitioner and Mr. B. Gogoi, learned Additional Public Prosecutor for the respondent State of Assam.

2. By this application under Section 438, Code of Criminal Procedure, 1973 [CrPC], the petitioner viz. Sri Parama Deka has approached this Court seeking the benefit of pre-arrest bail, apprehending his arrest, in connection with Gorchuk Police Station Case no. 80/2024 registered under Sections 461/380, Indian Penal Code [IPC].

3. In the First Information Report [FIR], lodged on 13.03.2023, an incident of theft which

occurred at the godown at Pub-Boragaon, Gorchuk, Guwahati of M/s Ronak Enterprise, was reported. The stolen items were E-rickshaw Batteries, E-rickshaw Chargers and E-rickshaw Parts. The CCTV installed was found broken and the DVR box was found stolen. In the course of investigation, one Muzahid Dewan was arrested and produced before the learned Chief Judicial Magistrate, Kamrup [Metro]. In the forwarding report dated 15.03.2024, pertaining to the arrested accused person, Muzahid Dewan, it was inter alia reported that during investigation, image of the stolen articles was seen in the mobile phone of the said arrested accused person and the arrested accused person was found to have shared the said image to different persons for selling the stolen articles.

4. Mr. Mollah, learned counsel for the petitioner has submitted that the said accused person is known to the petitioner as both belong to the same locality. But except sharing the image of the stolen articles by the arrested accused person, the petitioner has no involvement in the alleged crime.

5. Mr. Gogoi, learned Additional Public Prosecutor, who has received the case diary, has submitted on the basis of the materials available in the case diary, that it is found that the arrested accused person, Muzahid Dewan had shared the image of the stolen articles with the petitioner and many others. Though the petitioner is not having proper antecedent but the materials do not go to indicate about any involvement of the petitioner in the alleged crime. Mr. Gogoi has submitted that pursuant to the interim order dated 28.03.2024, the petitioner has already appeared before the I.O. of the case and has, thus, joined the investigation.

6. Having regard to the fact that nothing has emerged till date regarding any specific involvement of the petitioner in the alleged act of theft and considering the fact that the petitioner has already joined the investigation of the case by appearing before the I.O. of the case, this Court is of the considered view that the further custodial interrogation of the petitioner for the purpose of carrying out further investigation of the case is not necessary, provided he continues to extend his assistance and cooperation in carrying out further investigation into the case. Accordingly, the interim order passed earlier on 28.03.2024, is made absolute, subject to the compliance of the condition nos. [2], [3] and [4] already set

forth in the said order dated 28.03.2024.

JUDGE

Comparing Assistant