

GAHC010068432024



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

Case No. : AB/866/2024

MANIK DEKA
S/O LATE KANDARPA DEKA, R/O CHENGA BAMPARA, P.S.-TARABARI,
DIST- BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. A CHAUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 03.04.2024

Heard Mr. B.K. Mahajan, learned counsel for the petitioner. Also heard Mr. D.P. Goswami, learned Additional Public Prosecutor for the State.

This is an application filed under **Section 438 Cr.P.C.**, praying for pre-

arrest bail by the petitioner, namely, **Manik Deka**, in connection with **PRC Case No. 370/2024** registered under Section **341/323/326/307/201 IPC (arising out of Tarabari P.S. Case No. 88/2023 under Section 341/325/326/307 IPC), pending in the court of SDJM(S), Barpeta.**

It is submitted by the learned counsel for the petitioner that the charge-sheet has already been submitted against the petitioner and the petitioner was shown as an absconder in the charge-sheet and the summons has been issued to him. The learned counsel for the petitioner further submits that as it is a Sessions' triable case, there is an apprehension that if the petitioner appears before the trial court, he may be sent to jail. Considering the background of the case, the privilege of pre-arrest bail may be extended to the petitioner.

On the other hand, Mr. Goswami, learned Addl.P.P. submits that in this case charge-sheet vide C.S. No. 05/24 has already been submitted on 28.01.2024. He has opposed in granting bail to the petitioner by stating that the petitioner was shown as absconder in the charge sheet as such, he may not be available during trial also.

I have considered the submissions of the learned counsel for the parties. I have also perused the averments made in the petition.

It is a settled position of law that the police has no authority to declare a person as absconder. The court has such power to declare one person absconder after proper execution of proclamation of attachment and warrant of arrest after examination of executing officer.

As the charge-sheet has already been laid in this case, so the petitioner may approach before the concerned court with appropriate application for bail. Accordingly, the learned court shall allow the petitioner to go on bail on furnishing bail bond of Rs.50,000/- with a suitable surety of the like amount to his/her satisfaction. Liberty is given to the court to impose any condition(s) as it deems fit and proper at the time of releasing the petitioner/accused on bail to procure his

attendance during trial.

The anticipatory bail application is disposed of accordingly.

JUDGE

Comparing Assistant