

GAHC010073552024



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

Case No. : AB/932/2024

RAJENDRA KUMAR PINCHA
S/O LATE ASH KARAN PINCHA
R/O T.B. ROAD,
TANGLA, P.S. UDALGURI
P.O. AND DIST. UDALGURI, ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. B CHAKRABORTY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 08.04.2024

Heard Mr. B. Chakraborty, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 438 of the Code of Criminal Procedure, 1973, praying for grant of pre-arrest bail the accused/petitioner, who is apprehending arrest in connection with Dharamtul P.S. Case No. 08/2024, under Section 395 of the Indian Penal Code.

It is submitted by Mr. B. Chakraborty, learned counsel for the petitioner, that the present accused/petitioner is an established businessman having trade license and he deals with the business of areca nuts and used to pay proper GST. However, during the investigation of this case, the house of the present accused/petitioner was also searched by the police as it was alleged that the theft areca nuts were already sold in the market. But from the order passed by the learned Sessions Judge, it is seen that all the areca nuts were already been seized in connection with this case from one M/s Radheshyam Traders and after the house search of the present accused/petitioner, nothing has been found. However, as the house search is made by the police, there is an apprehension that the police may arrest him and hence the present anticipatory bail application has been filed seeking pre-arrest bail. However, he is ready and willing to co-operate with the I.O. in the further investigation of the case if he is granted with the privilege of pre-arrest bail.

In this context, Mr. P. Borthakur, learned Additional Public Prosecutor, has submitted that a serious allegation of hijacking of truck along with allegation of theft of areca nuts have been brought against the accused persons. However, from the materials available in the Case Diary, it is seen that the accused/

petitioner had purchased the areca nuts from one Kushal Agarwal and apart from that there are no other materials in the Case Diary to incriminate the accused/petitioner in the present case. Further he submitted that the entire stolen articles are yet to be recovered and the case is at the stage of investigation and hence, the custodial interrogation of the present accused/petitioner may be necessary for the interest of investigation.

After hearing the submissions made by the learned counsels for both sides and also on perusal of the Case Diary, it is seen that except the allegation that the present accused/ petitioner had purchased some quantity of the areca nuts from one Kushal Agarwal, there is no other incriminating materials regarding his involvement in the offence of hijacking of truck and theft of the areca nuts. Accordingly, I am of the view that custodial interrogation of the present accused/petitioner may not be necessary for the purpose of investigation and therefore, I find it a fit case to extend the privilege of pre-arrest bail to the accused/petitioner.

Accordingly, it is provided that in the event of arrest of the accused/petitioner, namely, Shri Rajendra Kumar Pincha, in connection with Dharamtul P.S. Case No. 08/2024, under Section 395 of the Indian Penal Code, he shall be enlarged on pre-arrest bail on his executing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the arresting authority, subject to the following conditions:

- (i) that the petitioner shall appear before the Investigating Officer of

the case within a period of 1 (one) week from today to enable recording of his statement;

- (ii) that the petitioner shall fully co-operate with the investigation of the case and shall appear before the Investigating Officer as and when required in connection with the investigation of the aforesaid P.S. Case; and
- (iii) that the petitioner 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.

The anticipatory bail application stands disposed of in terms above.

The Case Diary be sent back.

JUDGE

Comparing Assistant