

GAHC010075532024



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

Case No. : AB/1025/2024

RAMENDRA KAKATI
S/O SONARAM KAKATI
VILL- NAGAON
P.S. BAIHATA CHARIALI
DIST. KAMRUP, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PP, ASSAM

Advocate for the Petitioner : MS G DEKA

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

24.04.2024

Heard Ms. G. Deka, learned counsel for the applicant and also heard Mr. P.S. Lahkar, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application under Section 438 Cr.P.C. is preferred by the applicant, namely,

Ramendra Kakati, who has been apprehending arrest in connection with Sadiya P.S. Case No.151/2023, under Section 406 IPC, 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 Bimal Gogoi, on 06.08.2023. The essence of allegations made in the aforesaid FIR is that the informant is supposed to receive a sum of ₹ 4,00,000/-, for business purpose, from the accused and the accused has handed him over two numbers of cheque, bearing Nos.889549 and 889550 of his bank account, bearing A/C No.20350331910 of SBI, Baihata Chariali Branch and when he present the cheques with his banker for encashment, then the same returned dishonoured due to insufficient fund in the account of the accused.

4. Ms. Deka, learned counsel for the applicant submits that in connection with the said incident, the informant has already filed one case under Section 138 of the N.I. Act before the learned Chief Judicial Magistrate, Tinsukia and in the said case, the applicant has already entered appearance standing trial and in the said case, he has already been granted bail and this FIR is not at all maintainable for the same offence and that he is ready to cooperate with the investigating agency in this case and therefore, it is contended to allow this petition.

5. On the other hand, Mr. P.S. Lahkar, learned Additional Public Prosecutor, Assam, submits that since the applicant has already facing trial in connection with the N.I. Case No.151/2023 instituted by the informant of this case before the Court of learned Chief Judicial Magistrate, Tinsukia for the same incident since the applicant is ready to cooperate with the investigating agency and he has no objection in the event of granting the privilege of pre-arrest bail to the applicant.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record.

7. It appears from the Annexure-2 of the application that the informant has already instituted one case, being N.I. Case No.151/2023 in the Court of learned Chief Judicial

Magistrate, Tinsukia for dishonour of the cheques issued by the applicant to the informant, wherein the applicant has, statedly, standing trial, and in view of above, and also considering the facts and circumstances on the record and the nature and gravity of the offence, this Court is inclined to allow this petition.

8. It is provided that in the event of arrest of the applicant, namely, Ramendra Kakati, in connection with Sadiya P.S. Case No.151/2023 under Section 406 IPC, he shall be enlarged on pre-arrest bail on his executing a bond of ₹ 50,000/- with one surety of the 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 S.D.J.M.(M), Sadiya, without prior permission.

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

Sd/- Robin Phukan
JUDGE

Comparing Assistant