

GAHC010077232024



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

Case No. : AB/1000/2024

MD. SAMSUL HOQUE
S/O MD. ISLAM ALI,
RESIDENT OF NATHKUCHI NO. 2, PS TIHU, DIST NALBARI, ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP ASSAM

Advocate for the Petitioner : MR. C K NATH

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

01.05.2024

Heard Mr. B.K. Mahajan, learned counsel for the applicant and also heard Ms. A. Begum, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. Apprehending arrest in connection with Tihu P.S. Case No.20/2024 under Section

457/380 IPC, this application under Section 438 Cr.P.C. is preferred by applicant, namely, Md. Samsul Hoque, 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 Jitesh Jalan of AIDC Complex, No.2 Nathkuchi, on 05.04.2024. The essence of allegation made in the aforesaid FIR is that on 04.04.2024, at around 8:20 p.m., two or more persons entered into the compound of his upcoming glass factory, situated at AIDC Complex, Nathkuchi and they came in a Sedan car, which could be seen from the CCTV footage of his neighbours and stolen away 3 nos. of welding machines, welding cable (50-60 meters), Hikoki brand miter saw (1 no.), hand grinder (2 nos.), LPG Cylinder (1 no.), 14 inch cutting glade (16 nos.), MS plate (16 m) – 16 nos. of size 12" X 10" (about 200 kg), electrical lights and equalizer, electrical goods and various hand tools and construction tools, of worth Rs.1.86 lakhs.

4. Mr. Mahajan, learned counsel for the applicant submits that the applicant is innocent and no way involved with the offence alleged in the FIR and that he is also ready to cooperate with the investigating agency and two of the accused, namely, Ajijur Rahman and Israjul Rahman were already arrested by police and the stolen articles have also been recovered and seized and in the meantime the investigation might have been completed and that the applicant is a service holder under the Government of Assam, in the office of the Executive Engineer, Nalbari Division (Irrigation) and serving as a Power Pump Operator and there is no chance of absconding and therefore, it is contended to allow the petition.

5. On the other hand, Ms. A. Begum, learned Additional Public Prosecutor, Assam, has produced the case diary before this Court and submits that the I.O. has collected some materials in support of the allegation made in the FIR and therefore, she has opposed the petition.

6. Having heard the submission of learned Advocates of both sides, I have carefully

gone through the petition and the documents placed on record and also perused the case diary with the assistance of Ms. Begum, learned Additional P.P.

7. The case diary indicates that the I.O. has collected some materials in support of the allegation made in the FIR. It is a fact that the stolen articles were recovered from the house premises of Md. Israjul Ali on being led and shown by Ajijul Rahman and also some of the articles were recovered from the possession of Md. Ajirul Islam and that the investigation is going on and at this stage, it cannot be said that custodial interrogation of the applicant is not required in the interest of investigation. His custodial interrogation is indispensable in the interest of investigation to unearth the entire chain of events and under the aforementioned facts and circumstances, this Court is of the view that this is not a fit case where the privilege of pre-arrest bail can be granted to the applicant and accordingly, the anticipatory bail application stands dismissed.

8. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant