

GAHC010078952024



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

Case No. : AB/1073/2024

INDESWAR PEGU
S/O LATE DURGESWAR PEGU,
VILL.- DEKA MISSING,
P.O.- DEKA PAM, P.S.- SIMEN CHAPORI, DIST.- DHEMAJI, ASSAM, PIN-
787061.

VERSUS

THE STATE OF ASSAM
REP. BY P.P., ASSAM.

Advocate for the Petitioner : MR M R ADHIKARI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 08.05.2024

Heard Mr. M.R. Adhikari, learned counsel for the applicant. Also heard Mr. P.S. Lahkar, learned Addl. Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with Simen Chapori P.S. Case No. 01/2024, under Section 379 of the IPC, this application under Section 438

Cr.P.C. has been preferred by the applicant, namely, Indeswar Pegu, for grant of pre-arrest bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of a complaint lodged by GIL Infrastructure Limited (GIL), a company registered under the Companies Act, 1956, having its registered office at 3rd floor, Global Vision, Electronic Sadan-II, MIDC TTC Industrial Area, Mahape, Navi Mumbai, Maharashtra. The essence of allegation made in the aforesaid complaint is that GIL is engaged in the business of installation and maintenance of passive infrastructure/telecom towers for the licensed telecom operators in pursuance of the registration certificate issued by the Department of Telecommunications, Ministry of Communications and I.T, Government of India, and that they have acquired one telecommunication tower category, known as ground base tower, in an area measuring 1600 sq. ft. on the land, bearing Dag No. 75 and 38, Patta No. 20, situated at the premises of Indeswar Pegu of village Dekapam, Mouza- Jonai, in the Dhemaji district, and that in the month of May, 2023, when the representatives of the complainant company visited the aforesaid premise, they found that the entire mobile tower and its ancillary equipments were missing from the said premises and the value of the aforesaid tower was worth Rs. 20,09,050/-.

4. Mr. Adhikari, learned counsel for the applicant submits that the applicant is the owner of the plot of land where the stolen mobile tower was situated pursuant to an agreement dated 15.03.2009, with Dishnet Wireless Limited and the said agreement expired on 14.06.2021 and since then the same was not renewed and thereafter, the present applicant has issued legal notice to M/s Dishnet Wireless Limited for removing the tower on 08.12.2022 and thereafter, some unknown persons have stolen the aforesaid tower and that he is no way

involved with the offence alleged in the complaint and he is ready to cooperate with the investigating agency, and therefore, it is contended to allow the application.

5. On the other hand, Mr. P.S. Lahkar, the learned Addl. Public Prosecutor has produced the case diary before this Court and submits that the materials collected so far in the case diary failed to disclose any legally prosecutable culpability against the present applicant.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the application and the documents placed on record and also perused the case diary with the assistance of Mr. Lahkar, learned Addl. Public Prosecutor.

7. In view of the materials collected so far in the case diary and also in view of the progress of investigation as well as the submissions made by learned Advocates of both sides, custodial interrogation of the applicant seems to be not warranted here in this case and therefore, this Court is inclined to allow the application.

8. Accordingly, it is provided that in the event of arrest of the applicant in connection with Simen Chapori P.S. Case No. 01/2024, under Section 379 of the IPC, he shall be released on pre-arrest bail on executing a bond of Rs. 50,000/- with one surety of 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 SDJM(M), Jonai without prior permission.

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

10. Case diary be returned.

JUDGE

Comparing Assistant