

GAHC010080862024



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

Case No. : AB/1070/2024

ALI HUSSAIN
S/O JALAL UDDIN
VILL- KABAITARY, PT.IV,
P.S. JOGIGHOPA
DIST. BONGAIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. A KADDUS

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 09.05.2024

Heard Mr. A. Kuddus, learned counsel for the petitioner. Also heard Mr. K. K. Parasar, learned Additional Public Prosecutor for the State of Assam.

This is an application under Section 438 of the Code of Criminal Procedure, 1973, for grant of pre-arrest bail to the accused/petitioner, who is apprehending arrest in connection with Jogighopa P.S. Case No. 53/2024, under Section 392 of the Indian Penal Code.

Case Diary has been received. Perused the same. Heard both sides.

It is submitted by Mr. Kuddus, learned counsel for the petitioner, that the present accused/petitioner is innocent and he is no way involved in the alleged offence. It is a fact that he is the driver and owner of the vehicle and his truck was hired by one Islam Khan and Robiul Islam, but he is not aware about any theft of Areca Nuts. However, some bags of Areca Nuts were loaded in his truck by the said 2 (two) persons as his truck was hired by them and apart from that, he is not involved in the alleged offence. 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. K. K. Parasar, learned Additional Public Prosecutor, has submitted that the present accused/petitioner is the owner and driver of the vehicle, which was intercepted by the police with 100 bags of Areca Nuts. But, from the Case Diary, it reveals that altogether 420 bags of Areca Nuts were stolen from a truck and then at Pamohi, the truck of the present accused/petitioner was loaded with 100 bags of Areca Nuts, which was intercepted by the police. However, he submitted that considering the materials available in the Case Diary, the prayer of the present accused/petitioner may be considered.

After hearing the submissions made by the learned counsels for both sides and also considering the materials available in the Case Diary, it is seen that the present accused/ petitioner is the driver/owner of the seized vehicle, wherefrom 100 bags of Areca Nuts were recovered by the I.O. However, considering the materials available in the Case Diary, I find that custodial interrogation of the present accused/petitioner may not be necessary in the interest 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, Ali Hussain, in connection with Jogighopa P.S. Case No. 53/2024, under Section 392 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;
- (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; and

The anticipatory bail application stands disposed of in terms above.

The Case Diary be sent back.

JUDGE

Comparing Assistant