

GAHC010082482024



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

Case No. : AB/1064/2024

MUBARAK HUSSAIN
S/O ABDUL HAMID,
R/O NIJ-KATMI,
P.S.- BOKO, DIST.- KAMRUP, ASSAM.

VERSUS

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

Advocate for the Petitioner : MR. S RANA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

Date : 28.06.2024

- 1.** Heard Mr. S. Rana, learned counsel for the petitioner. Also heard Mr. K. Baishay, learned Additional Public Prosecutor for the State.
- 2.** This is an application under Section 438 Cr.P.C., 1973 for granting pre-arrest bail to the petitioner i.e. Mubarak Hussain who is apprehending arrest in connection with Hatigaon P.S. Case No. 38/2024 registered under Section 120(B)/420/421/422/423/386/387/34 IPC.

3. The case of the prosecution is that on 27.02.2024 an FIR was lodged *inter alia* alleging that as per information an institution namely Saraighat Co-operative Society wherein an illegal office for lending money to different people of the locality as well as others at high rate of interest by taking mortgage of valuable property were going on.
4. It is the further case of the prosecution that after the information received, the jurisdictional O/C had directed the complainant to proceed to the above mentioned spot and upon reaching there, a search was conducted at the office of the Co-operative Society and the Secretary of the society was arrested. Accordingly, a case was registered.
5. Mr. S. Rana, learned counsel for the petitioner submits that the petitioner is a member of the Co-operative Society and the Co-operative Society lends money to its members in terms of the Bye Law adopted.
6. Case diary called is placed before this Court pertinent that this Court by order dated 09.05.20224 allowed interim pre-arrest bail to the petitioner subject to conditions.
7. Mr. K. Baishya, learned Additional Public Prosecution submits that the petitioner in terms of the Court's order dated 09.05.2024 passed earlier, appeared before the investigating officer and his statement also was recorded under Section 161 Cr.P.C. He further submits that the case diary reveals adverse materials against the petitioner. He further submits that the investigation has substantially progressed and the statements of the witnesses have already been recorded.
8. Heard the parties and perused the materials on record. It appears from

the materials available in the case diary that the Co-operative Society lent money to its members in terms of the By Law adopted. It further appears that the Co-operative Society is registered under the Assam Co-operative Societies Act, 2007. It further appears that the statement of the petitioner has been recorded under Section 161 Cr.P.C. and the petitioner is co-operating in the investigation. As such, this Court is of the considered view that custodial interrogation of the petitioner may not be justified for the ongoing investigation.

9. Accordingly, the interim order granted by this Court by order dated 09.05.2024 is hereby made absolute subject of course to the following conditions-

(i) That the petitioner shall co-operate with the investigation as and when called for;

(ii) 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

(iii) That the petitioner shall refrain from committing any similar offences in future of which he is accused or suspected of commission.

10. In view of the above, the bail petition stands disposed of.

JUDGE

Comparing Assistant