

GAHC010083932024



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

Case No. : AB/1085/2024

VISHAL DAGA
S/O LATE BINOD DAGA
R/O KAMAKHYA HILLS,
GUWAHATI, IN THE DISTRICT OF KAMRUP (METRO), ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MS. B S GOYAL

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 13.05.2024

Heard Ms. B. S. Goyal, learned counsel for the petitioner. Also heard Mr. K. Baishya, learned Additional Public Prosecutor for the State.

This application under Section 438 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, *Sri Vishal Daga*, who is apprehending his arrest in connection with Tangla P.S. Case No. 11/2024 under Sections 420/406/34 of the Indian Penal Code.

The gist of accusation in this case is that on 04.02.2024, one Gautam Dey had lodged an FIR naming six numbers of accused persons in the said FIR, including the present petitioner as accused No. 1, *inter alia*, alleging that the first informant along with 27 other persons used to do business of betel nut and they used to purchase the betel nut from small sellers from the local villagers and thereafter used to sell the same to the present petitioner. It is also alleged in the FIR that though since month of July, 2023, the petitioner has been supplied with betel nuts, however, he has not yet paid the consideration amount for the same and they have not taken the money for the same from the present petitioner. On receipt of the said FIR, Tangla P.S. Case No. 11/2024 was registered.

The learned counsel for the petitioner has submitted that bare perusal of the FIR would reveal that the dispute between the present petitioner and the first informant is pre-dominantly civil in nature. She has also submitted that out of six named accused, five accused persons have already been granted (anticipatory bail) protection by this Court. She has also submitted that the petitioner is ready to cooperate in the investigation, however, the petitioner is apprehending that he may be arrested in connection with this case and, therefore, he prays for allowing him to go on anticipatory bail.

On the other hand, learned Additional Public Prosecutor has submitted that as the present petitioner has been named as accused No. 1 in the FIR, perusal of the case diary would be necessary.

I have heard the learned counsel for both the sides and perused the materials on record.

On bare perusal of the FIR, it reveals that the dispute between the present

petitioner and the first informant is appears to be a commercial dispute of which is predominantly civil in nature. Moreover, also considering the fact that all other remaining five accused persons are already allowed to go on bail, this Court is of considered opinion that if the petitioner cooperates with the Investigating Officer, his custodial interrogation may not be necessary for fair completion of the investigation of Tangla P.S. Case No. 11/2024.

In view of above, this anticipatory bail application is disposed of with a direction to the petitioner to appear before the Investigating Officer of Tangla P.S. Case No. 11/2024 within the period of 10 days from the date of this order and cooperate in the investigation. If he does so, within the stipulated period of time, in the event of his arrest, in connection with Tangla P.S. Case No. 11/2024, he shall be allowed to go on bail of Rs.30,000/- (Rupees Thirty Thousand) with one surety of like amount subject to the satisfaction of the arresting authority with following conditions:-

- (i) That the petitioner shall cooperate in the investigation and shall appear before the Investigating Officer;
- (ii) That the petitioner shall not directly or indirectly make any inducement, threat or promise to any other persons who may be acquainted with the facts of the case so as to dissuade such persons from disclosing such facts before the Investigating Officer.

With the above observation, this anticipatory bail application is disposed of.

JUDGE

Comparing Assistant