

GAHC010090752024



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

Case No. : AB/1178/2024

MEGHNATH DAS @ MEGHNATH
S/O SRI DEBA DAS
R/O NATUN MISSING GAON
P.O. AND P.S. SILAPATHAR
DIST. DHEMAJI, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. P HAZARIKA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

10.05.2024

Heard Mr. P. Hazarika, learned counsel for the applicant and Mr. B.B. Gogoi, learned Additional Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with **Simen Chapori P.S. Case No. 19/2022**, under Section 379 of the IPC, this application under Section 438 of

the Code of Criminal Procedure, 1973, is preferred by applicant namely, **Sri Meghnath Das @ Meghnath** for grant of pre-arrest bail.

3. It is to be noted here that the said case has been registered on the basis of one F.I.R., lodged by one Rajib Hazarika, on 18.04.2022. The essence of allegation made in the FIR is that on 17.04.2022, at about 7:30 pm, while his motor cycle bearing registration No. AS-23-Y-4594 was parked in front of a shop, situated near the Simen Chapori Railway Station, was stolen by some unknown miscreants.

4. Mr. Hazarika, learned counsel for the applicant submits that the applicant is innocent and no way involved with the offence alleged in the FIR and that the applicant was a mechanic and he had repaired the aforesaid motor cycle long back and thereafter, he has received a notice from the I.O. concerned, under Section 41A of the Cr.P.C. and therefore, he has apprehension that he may be arrested in the aforementioned case, in the event of his appearance before the I.O. Mr. Hazarika further submits that the main accused namely, Sanjoy Das has already been arrested by the police and the stolen motor cycle was recovered from his possession and the said accused has already been granted bail by the learned Judicial Magistrate First Class, Jonai. Mr. Hazarika also submits that he is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, Mr. Gogoi, learned Additional Public Prosecutor submits that as the notice under Section 41A of the Cr.P.C. was issued to the applicant by the I.O., he may be directed to appear before the I.O. concerned.

6. Having heard the submissions of learned counsel for both the parties, I have carefully gone through the petition and the documents placed on the record.

7. It appears that the occurrence took place on 17.04.2022. Further, it appears that the prime accused has already been arrested and the stolen motor cycle was also recovered from his possession and the said accused was also released on bail by the learned court below, vide order dated 25.04.2024. It also appears that a notice under Section 41A of the Cr.P.C. was issued upon the applicant by the I.O. concerned and the applicant is ready to co-operate with the investigating agency.

8. Having regards to above and also having regards to the nature of accusation and the punishment prescribed for the same as well as the submissions so advanced by learned counsel for both the parties, this Court is inclined to extend the privilege of pre-arrest bail to the applicant.

9. Accordingly, it is provided that in the event of arrest of the applicant in connection with **Simen Chapori P.S. Case No. 19/2022**, under Section 379 of the IPC, he shall be enlarged on pre-arrest bail on his executing a bond of Rs. 50,000/- only with one surety of like amount to the satisfaction of the Investigating Officer.

10. The above privilege is, however, subject to the following conditions:

(i) that the applicant shall make himself available for interrogation by the Investigating Officer as and when required;

(ii) that 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) that the applicant shall not leave the jurisdiction of the learned

Sub-Divisional Judicial Magistrate (M), Jonai, without prior permission.

11. In terms of above, this AB stands disposed of, at this motion stage itself.

Comparing Assistant

JUDGE