

GAHC010096602024



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

Case No. : AB/1252/2024

ALOK DAS GUPTA
S/O LATE SONTOSH DAS GUPTA,
R/O VILL- SONARIBARLI, P.O. AND P.S. SAMAGURI, DIST. NAGAON,
ASSAM, PIN-782140

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. P MAHANTA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

16.05.2024

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

2. Apprehending arrest in connection with **Hamren P.S. Case No. 01/2024**, under Sections 419/420/406 of the IPC, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicant namely, **Sri Alok Das Gupta** for grant of pre-arrest bail.

3. The said case has been registered on the basis of one F.I.R., lodged by

one Rahul Teron, on 06.01.2024. The essence of allegation made in the FIR is that pursuant to an agreement dated 13.11.2023, he had taken a Hyundai Hydraulic Excavation 215 Smart Machine, Serial No. N635002608, Engine No. 84893175, on rent from one Alok Das Gupta and paid a sum of Rs. 3,50,000/- and after that he again paid a sum of Rs. 70,000/-, on 29.11.2023. Thereafter, on 03.01.2024, the registered owner of the said machine has taken back the machine from his quartz quarry at Arting village and thereby caused heavy loss to him.

4. Mr. Mahanta, learned counsel for the applicant referring to the Annexure – 2 of the petition, at page No. 24 – 26, submits that the informant had violated the condition Nos. 2; 4; 10; and 13 of the said agreement, for which the actual owner of the said machine had taken back the machine from the informant. Mr. Mahanta further submits that the dispute between the parties is civil in nature and that the applicant is ready to join the investigation and will cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, Mr. Gopgoi, learned Additional Public Prosecutor fairly submits that the dispute between the informant and the applicant appears to be civil in nature.

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 from the documents placed on record that pursuant to an agreement dated 13.11.2023, the informant had taken a Hyundai Hydraulic Excavation 215 Smart Machine from the applicant on rent. The applicant, as submitted by Mr. Mahanta, is not the owner of the machine and as the informant had failed to make payment of the machine and thereby violated the terms and conditions of the agreement, the original owner had taken back the machine. Thus, it appears that the dispute between the informant and the applicant appears to be

civil dispute arising out of violation of terms and conditions of an agreement.

8. Having regards to above and also having regards to nature and gravity of the offence 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 **Hamren P.S. Case No. 01/2024**, under Sections 419/420/406 of the IPC, he shall be enlarged on pre-arrest bail on his executing a bond of Rs. 50,000/- 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 **Chief Judicial Magistrate, Hamren**, without prior permission.

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

JUDGE

Comparing Assistant