

GAHC010101792024



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

Case No. : AB/1330/2024

DIPU HANDIQUE
S/O LATE CHITRA HANDIQUE, R/O MECHAGAR DA-HANDIQUE GAON,
P.O.-MECHAGAR, P.S.- NAZIRA, DIST- SIVSAGAR, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MS. P BORAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

28.05.2024

Heard Ms. P. Borah, learned counsel for the applicant and also heard Mr. K. Baishya, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application, under Section 438 Cr.P.C. is preferred by applicant, namely, Dipu Handique, who has been apprehending arrest in connection with Sivasagar P.S. Case

No.36/2024 under Section 379 IPC, for grant of pre-arrest bail.

3. It is to be noted here that the above noted case has been registered on the basis of an FIR lodged by one Prasanta Buragohain, Assistant Executive Engineer, PWRD, on 06.04.2024. The essence of allegation made in the aforesaid FIR is that on 05.04.2024, some miscreants had stolen iron pipes from nearby area of RCC Bridge No.1/4 over river Demow at Sologori on Kharikati Ali and the said materials were recovered and seized from a vehicle, bearing Registration No.AS-04BC-9094.

4. Ms. Borah, learned counsel for the applicant submits that the name of the applicant finds no mention in the FIR, but he has been apprehending arrest as because he is being searched by police and that one of the co-accused, namely, Sanjib Handique, has already been granted the privilege of pre-arrest bail by this Court vide order dated 17.05.2024, in AB No.1177/2024 and that the applicant is ready to cooperate with the investigating agency and therefore, it is contended to allow this petition.

5. On the other hand, Mr. K. Baishya, learned Additional Public Prosecutor, Assam, has produced the case diary before this Court and submits that the I.O. has collected some materials in support of the allegation made in the FIR and therefore, Mr. Baishya has opposed the petition.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Baishya, learned Additional P.P.

7. It appears that one of the co-accused, namely, Sanjib Handique has already been granted the privilege of pre-arrest bail vide order dated 17.05.2024 in AB No.1177/2024. Further, it appears that the stolen articles have already been recovered and seized by police and as such custodial interrogation of the applicant, in the interest of investigation, which appears to be progressed significantly, seems to be not warranted in the interest of investigation and accordingly, this Court is inclined to allow this petition.

8. It is provided that in the event of arrest of the applicant, namely, Dipu Handique, in

connection with Sivasagar P.S. Case No.36/2024 under Section 379 IPC, he shall be enlarged on pre-arrest bail on his executing a bond of ₹ 50,000/- with one surety of the like amount to the satisfaction of the arresting authority. The above privilege is, however, subject to the following conditions:-

- (i) The applicant shall make himself available for interrogation by the Investigating Officer as and when required;
 - (ii) 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) The applicant shall not leave the jurisdiction of the learned C.J.M., Sivasagar, without prior permission.
9. In terms of above, this anticipatory bail application stands disposed of.
10. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant