

GAHC010109952024



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

Case No. : AB/1439/2024

MODAN BARUAH
S/O PURNA KANTA BARUAH, R/O BOLOMA POTHAR GAO, P.S.-TEOK,
DIST- JORHAT, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. H S BORAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 25.06.2024

Heard Mr. H. S. Borah, learned counsel for the petitioner. Also heard Mr. B. Sharma, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 438 of the Code of Criminal Procedure, 1973, praying for grant of pre-arrest bail to the accused/petitioner, who is apprehending arrest in connection with Teok Police Station Case

No.32/2024, under Section 384/506 of the Indian Penal Code read with Section 7 C (1) (2) of the Assam Money Lender's Act.

CD received, perused the same and heard both the sides.

It is submitted by Mr. H. S. Borah, learned counsel for the petitioner, that the present petitioner is innocent and he is no way involved in the alleged offence. It is a fact that he used to lend money to needy persons on interest and the present informant also approached him with a prayer to give loan for expanding her pig farm and the petitioner accordingly lend her Rs. 90,000/- after selling his the Television and Mobile Repairing Shop and thus he helped the present informant. But she did not return him the money, rather when she came to know that the present petitioner has already obtained the license for lending money, she lodged the F.I.R. against him with some false and concocted allegations. More so, he is a physically disabled person and he was earning his livelihood through his shop. However, he is ready and willing to co-operate with the Investigating Officer in the further investigation of this case if he is granted with the privilege of pre-arrest bail.

In the context, Mr. B. Sharma, learned Additional Public Prosecutor for the State respondent, has submitted that there are sufficient incriminating material against the present accused/petitioner. In the name of loan, the petitioner used to threaten some person and if they could not return the money, he use to take higher amount in the name of interest and even he use to take the PAN Card, Aadhar Card from the persons and used to withdraw their money from their Provident Fund Account. He is doing such kind of business without any license

since long and harassing the people who approach him with a prayer for loan. Accordingly, it is submitted by Mr. B. Sharma that it is not at all a fit case to extend the privilege of pre-arrest bail to the present accused/petitioner.

Considering the submissions made by the learned counsels for both sides, I have perused the case record along with the case diary, wherefrom it is seen that the Investigating Officer has collected some incriminating materials against the present accused/petitioner and from the materials available in the case record, it not only attract Section 7 C (1) (2) of the Assam Money Lenders' Act, but also attract the Section 384/506 of the I.P.C. Further from the license, which is annexed along with the petition, it seems that the same was issued in the name of the present petitioner on 29.04.2024 and prior to that he had no license to do such kind of business.

In view of above, I find that custodial interrogation of the present accused/petitioner may be necessary for the interest of just and proper investigation of the case and therefore, I do not find it a fit case to grant the privilege of pre-arrest bail to the accused/petitioner at this stage and accordingly the same stands rejected.

In terms of above, this anticipatory bail application stands disposed of.

JUDGE

Comparing Assistant