

GAHC010124722024



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

Case No. : AB/1608/2024

MRS. MADHUMITA BAYAN
W/O MR. DIPRANJAN KUMAR, R/O SAI VILLA, RAMA MIKIR PATH, H. NO.
11A, UPPER HENGRABARI, GUWHAATI-36, KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. JYOTIRMOY ROY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 25.07.2024

Heard Mr. J. Roy, learned Senior counsel assisted by Mr. A. Goswami, learned counsel for the petitioner. Also heard Mr. D. Das, learned 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 Dispur P. S. Case No.578/2024 registered under Sections 420/406/385/387 of the Indian Penal Code.

The Case Diary has been received and I have perused the same.

It is submitted by the learned Senior Counsel, Mr. Roy, that the petitioner is innocent and has not committed the offence alleged in the FIR. It is a fact that there was a monetary transaction between the parties, and the informant has taken around 87 lakhs from the petitioner, which he has not returned till date. Furthermore, at the time of purchasing the informant's vehicle, the petitioner paid special fees for obtaining special numbers, and the first installment of insurance was also paid through her husband's account.

After the registration of the case, the petitioner voluntarily handed over the vehicle, which was in her possession, to the police. Moreover, after obtaining interim pre-arrest bail, she cooperated with the Investigating Officer (IO) during the investigation. Mr. Roy, learned Senior Counsel further submitted that the matter involves a monetary transaction and thus should be treated as a civil case. However, the FIR has been lodged with criminal implications, alleging that the petitioner visited the informant's residence in search of him. The fact is that the petitioner visited his house only because he was not responding to her telephone calls and was not returning the money. Further, she is ready and willing to co-operate with the I.O. in further investigation of this case if her interim pre-arrest bail order is made absolute.

In this context, the learned Public Prosecutor, Mr. Das, has submitted that

the accused/petitioner appeared before the I.O after obtaining interim pre-arrest bail and recorded her statement under Section 161 of the Cr.P.C. However, based on the materials available in the Case Diary, it is evident that there was a monetary transaction between the parties. It is also noted that the informant received around 87 lakhs in different installments from the accused/petitioner, but has only returned Rs. 10 lakhs to her so far. Accordingly, he submits that custodial interrogation may not be necessary in the interest of the investigation.

After hearing the submissions of learned counsels for both sides and considering the materials available in the Case Diary, it is observed that the petitioner appeared before the Investigating Officer (IO) and recorded her statement under Section 161 of the Cr. P. C. after obtaining pre-arrest bail. Therefore, I find it appropriate to extend the interim pre-arrest bail. Accordingly, the interim pre-arrest bail granted to the accused/petitioner vide order dated 21.06.2024, is hereby made absolute, with a direction to co-operate with the I.O. in further investigation of the case.

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

The Case Diary be sent back.

JUDGE

Comparing Assistant