

GAHC010128352024



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

Case No. : AB/1660/2024

RAKIBUL ISLAM
S/O KHORSED ALAM, R/O VILL- NA-KUCHI PATHER, P.O.- NA-KUCHI
PATHER, P.S.- BHAWANIPUR, DIST- BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

2:INVESTIGATING OFFICER OF FIR NO. 09/2023 REGISTERED U/S 419/420
IPC R/W SEC. 66 IT ACT
C/O CYBER CRIME POLICE STATION
COMMISSIONERATE
PRAYAGRAJ
DIST- PRAYAGRAJ (ALLAHABAD)
P.O.-ALLAHABAD
PIN-211001
STATE- UTTAR PRADESH

Advocate for the Petitioner : MD A ALI

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

27.06.2024

Heard Mr. A. Ali, learned counsel for the petitioner. Also heard Mr. R. J. Baruah, learned Additional Public Prosecutor for the State respondent.

This application filed under Section 438 of the Code of Criminal Procedure, 1973, praying for granting pre-arrest bail to the accused/petitioner in connection Cyber Crime Police Station, Commissionerate, Prayagraj FIR No.09/2023 under Sections 419/420 of IPC *read with* Section 66 of IT Act.

It is submitted by the learned counsel for the petitioner, Mr. Ali that the present petitioner is apprehending arrest in connection with this case as he had already received notice under Section 160 of Cr. P.C. from the Cyber Crime Police Station, Prayagraj. It is contended by the petitioner that after completion of High School, one of his friend took all his documents for applying scholarship, but he did not knew that his friend will commit fraud using his Bank account. Accordingly, he prays to grant pre-arrest bail and also states that he will co-operate the investigating agency as and when required, if, the pre-arrest bail is granted to him.

In support of his submission, he relies on the decision passed by the Supreme Court reported in **2023 (0) Supreme (SC) 1164 [Priya Indoria vs. State of Karnataka & Ors.]**, wherein, the Supreme Court had observed that the High Court or the Court of Session could grant limited anticipatory bail in the form of an interim protection under Section 438 of Cr.P.C. in the interest of justice with respect to an FIR registered outside the territorial jurisdictional of the said Court.

In this context, Mr. Baruah, learned Additional Public Prosecutor has raised objection and submitted that the petition itself is not maintainable and that apart he

submits that the notice was issued only under Section 160 of Cr.P.C. against the accused/petitioner as a witness and it is not a case that he was issued notice under Section 41A of Cr.P.C.

After hearing the submission made by the learned Advocates of both sides, it is seen that the notice on the basis of which the present anticipatory bail application has been preferred by the accused/petitioner is only under Section 160 of Cr.P.C. whereby, the petitioner was asked to appear before the police station only as a witness and thus, there cannot be any apprehension of arrest in connection with this case and hence, I do not find it appropriate to entertain the instant anticipatory bail application only for receiving notice under Section 160 of Cr.P.C. in the Cyber Crime Police Station, Commissionerate, Prayagraj in connection with FIR No.09/2023 under Sections 419/420 of IPC *read with* Section 66 of IT Act.

In view of above, this Anticipatory Bail application stands dismissed.

JUDGE

Comparing Assistant