

GAHC010139502024



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

Case No. : AB/1800/2024

RAJENDRA NAIK
S/O- BHAGARAM NAIK,
R/O- VILLAGE- BEHARBARI,
P.O AND P.S- BASISTHA,
DIST-KAMRUP METRO,
PIN-781029

VERSUS

THE STATE OF ASSAM
REP BY THE PP ASSAM

Advocate for the Petitioner : MS. ANKITA BORAH, MS. J GHOSH, MS. K L R YANTHAN, MR. S C BISWAS

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 18.09.2024

Heard Mr. S.C. Biswas, learned counsel for the applicant. Also heard Mr. K.K. Parashar, learned Addl. Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with Azara P.S. Case No. 85/2024,

under Sections 407/379 of the IPC, this application under Section 438 Cr.P.C. has been preferred by the applicant, namely, Rajendra Naik, 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 Anurag Agarwal, on 13.04.2024. The essence of allegation made in the aforesaid FIR is that on 12.04.2024, at about 7:30 p.m., 200 packets of moong dal, 30 kg in each packet, 100 packets of chana dal, 30 kg in each packet, 500 packets of mosur dal, 30 kg in each packet, worth of Rs. 19,07,307/- and 100 packets of moong dal, 30 kg in each packet worth of Rs. 3,31,821/- were loaded in a Truck, bearing Registration No.NL-01K-1761, belonging to R.K. Transport, Azara driven by one Umad Ali, and the consignment was supposed to be delivered to Maya Product, Barpeta road. But, later on, he found the vehicle along with the loaded articles missing and also found the mobile phone of the driver switched off.

4. Mr. Biswas, learned counsel for the applicant submits that this Court, vide order dated 09.08.2024, was pleased to grant interim protection to the applicant so as to enable him to get his mother operated, who is suffering from cholelithiasis and that due to some financial constraint, he could not get her mother operated and therefore, Mr. Biswas submits that necessary order may be passed.

5. On the other hand, Mr. Parashar, the learned Addl. Public Prosecutor has produced the case diary before this Court and submits that the I.O. has collected sufficient incriminating materials against the present applicant and that his custodial interrogation is necessary, and therefore, Mr. Parashar has opposed the application.

6. Having heard the submission of learned Advocates of both sides, I have

carefully gone through the application and the documents placed on record and also perused the case diary with the assistance of Mr. Parashar, learned Addl. Public Prosecutor.

7. It appears from the order dated 09.08.2024, that only for the purpose of getting the mother of the applicant operated, interim protection was granted to him for a period of one month, and the period of one month has elapsed and according to Mr. Biswas, the applicant could not get her mother operated. On the other hand, the case diary, produced by Mr. Parashar, indicates that investigation is still going on and there are sufficient incriminating materials against the applicant and as such, it cannot be said that custodial interrogation of the applicant is not required, in the interest of investigation.

8. Considering the submissions of learned Advocates of both sides and also considering the facts and circumstances on the record, as well as the nature and gravity of the offence and the punishment prescribed for the same, this Court is of the view that the privilege of pre-arrest bail cannot be extended to the applicant and accordingly, this application stands dismissed.

9. Interim order passed earlier stands vacated.

10. In terms of above, this application stands disposed of.

11. Case diary be returned.

JUDGE

Comparing Assistant