

GAHC010166922024



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

Case No. : AB/2169/2024

MD BAHARUL ISLAM
S/O SHARAFAT ALI
R/O VILL- MORISHUTIPAM
P.S. MAYONG,
DIST. MORIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE LD. PP, ASSAM

Advocate for the Petitioner : MR. T CHUTIA, MS S NASRAT

Advocate for the Respondent : PP, ASSAM,

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

17.09.2024

Heard Mr. T. Chutia, learned counsel for the petitioner. Also heard Mr. K. K. Das, learned Additional Public Prosecutor for the State respondent.

This is an application filed under Section 482 of the Bharatiya Nagarik Surakha Sanhita, 2023, praying for grant of pre-arrest bail to the accused/petitioner, who is apprehending arrest in connection with Tezpur P.S. Case No.291/24, under Sections 457/380 of the Indian Penal Code.

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

It is submitted by the learned counsel for the petitioner, Mr. Chutia, that the petitioner is innocent and is in no way involved in the alleged offence as stated in the FIR. It is a fact that he is the owner of the vehicle from which some stolen articles were recovered by the police. However, the stolen articles were purchased by the driver, and the petitioner was not aware of the same. He further submitted that the petitioner had filed a zimma petition before the learned Trial Court, which was rejected based on the report of the investigating officer (IO) stating that the petitioner was also involved in the alleged theft. Challenging this order, the petitioner filed a criminal revision petition, numbered CrI.Rev.P./322/2024 and vide order dated 02.09.2024, the petitioner's prayer for zimma of the vehicle was allowed.

He also submitted that the co-accused/driver of the vehicle has already been released on bail by the learned Trial Court, and all the stolen articles have been recovered. Therefore, the petitioner may not be required for further investigation. Furthermore, the petitioner is still ready and willing to co-operate with the IO in the further investigation of the case if he is granted the privilege of pre-arrest bail.

On the other hand, Mr. Das, learned Additional Public Prosecutor, has submitted that according to the report of the investigating officer (IO) furnished to the Trial Court at the time of passing the order on the zimma petition, it was reported that the petitioner is also involved in the alleged crime. Furthermore, one of the co-accused is still absconding. He further submitted that though there is no specific allegation in the case diary, the statement made by the driver of the vehicle suggests that, based on the direction of the present petitioner, the theft was committed.

Considering the submissions of the learned counsels for both sides and upon perusal of the case diary, it is seen that there is no specific allegation against the accused petitioner. It is a fact that he is the owner of the vehicle from which the stolen articles were recovered by the police during the investigation. Therefore, taking into account the entire facts and circumstances of the case, including the recovery of the stolen articles and other aspects, I find that custodial interrogation of the present accused/petitioner is not necessary. Consequently, I deem it appropriate to grant the privilege of pre-arrest bail to the accused/petitioner.

Accordingly, it is provided that in the event of arrest of the accused/petitioners, namely, **Md. Baharul Islam**, in connection with Tezpur P.S. Case No.291/24, under Sections 457/380 of the Indian Penal Code, he shall be enlarged on pre-arrest bail on his executing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the arresting authority, subject to the following conditions:

- (i) that the petitioner shall make himself available for interrogation by the Investigating Officer within 7(seven) from today.
- (ii) that the petitioner 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) that the petitioner shall not leave the jurisdiction of the concerned jurisdictional Magistrate, without prior permission.

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

The Case Diaries be sent back.

JUDGE

Comparing Assistant