

GAHC010180702024



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

Case No. : AB/2362/2024

MD MAINUL HOQUE
S/O HAJARAT ALI
BY PROFESSION ADVOCATE, RESIDENT OF VILL- BATIAMARI, P.O.
MALIBARI, PATHAR BAZAAR, P.S. BOKO, DIST. KAMRUP (R), ASSAM,
PRESENTLY RESIDING AT HOUSE NO. 17, BITUPAN PATH, NOTBOMA
PACHALI, P.O. AND P.S. HATIGAON, IN THE DISTRICT OF KAMRUP
(METRO), ASSAM, PHONE NO. 8822100014.

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. P A AHMED, MR B ISLAM

Advocate for the Respondent : PP, ASSAM,

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

25.09.2024

Heard Mr. P.A. Ahmed, learned counsel for the applicant and also heard Mr. P.S. Lahkar, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, is preferred by the applicant, namely, Mainul Hoque, who has been apprehending arrest in connection with Dispur P.S. Case No.384/2022, under Section 341/347/427/34 IPC, added Section 120B/468/423/471/409 IPC, for grant of pre-arrest bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by one Debabrata Mahanta on 17.02.2022 with the In-Charge, Udalbakra Police Out Post. The essence of allegation made in the aforesaid FIR is that he had a plot of land registered in the name of his father Late Narayan Chandra Mahanta, bearing Dag No.888, Patta No.191 at Sawkuchi and some unknown persons have blocked the government road leading to his land and taking that opportunity, some unknown persons have filled up the said vacant plot of land and trying to grab the same.

4. Mr. Ahmed, learned counsel for the applicant submits that the applicant is a practicing Advocate and he is no way involved with the offence alleged in the FIR and that the recorded pattadar of the land, namely, Gadhuli Deka has executed one General Power of Attorney in favour of one Amir Hussain and that the applicant was a witness to the said Power of Attorney and except that the present applicant is no way involved with the offence alleged and that he is ready to cooperate with the investigating agency and therefore, it is contended to allow this application.

5. On the other hand, Mr. P.S. Lahkar, learned Additional Public Prosecutor, Assam, has produced the case diary before this Court and submits that the I.O. has collected sufficient incriminating materials against him and that the offences are serious in nature and his custodial interrogation is required and therefore, it is contended to dismiss the petition.

6. Having heard the submission of learned Advocates of both the parties, I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Lahkar, learned Additional P.P.

7. The case diary indicates that the I.O. has collected sufficient incriminating materials against the present applicant. The offences are also serious in nature and investigation is going on and it cannot be said that custodial interrogation of the applicant is not required in the interest of investigation. Accordingly, having regard to the nature of accusation and the punishment prescribed for the same and also in view of the material collected in the case diary, this Court is of the view that this is not a fit case where the privilege of pre-arrest bail can be granted to the applicant and accordingly, the anticipatory bail application stands dismissed.

8. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant