

GAHC010218492023



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

Case No. : AB/3381/2023

TAJ UDDIN
S/O- MOROM ALI, R/O- SADAR GAON, P.S. MURAJHAR, P.O. NIJ BOHORI,
DIST.- HOJAI

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE P.P., ASSAM

Advocate for the Petitioner : MS. T SOM

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 09.01.2024

At about 10:15 a.m. today, a mention has been made by Ms. B. Das, learned counsel for the applicant that her senior is not present in the Court and prayed for adjourning the matter to another date. The learned Addl. Public Prosecutor Ms. A. Begum, then submits that case diary has already been received by her and the same is being retained since 07.11.2023 and that on three occasions, adjournment was sought for and granted to the learned counsel for the applicant, and therefore, the learned Addl. Public Prosecutor has opposed the

adjournment prayer. Accordingly, it has been decided to hear the parties.

2. Thereafter, at about 3 p.m., both the parties were heard.

3. The learned counsel for the applicant submits that apprehending arrest in connection with Murajhar P.S. Case No. 179/2023, under Sections 120(B)/420/406/489(A)/489(C) of the IPC, this application under Section 438 Cr.P.C. has been preferred by the applicant, namely, Taj Uddin for grant of pre-arrest bail, and that the allegations are against one of the co-accused, namely, Ismail Ali, who had implicated the present applicant with the offence alleged in the FIR and that he is ready to cooperate with the investigating agency, and therefore, it is contended to allow the petition.

4. On the other hand, Mr. B. Sarma, the learned Addl. Public Prosecutor submits that the I.O. has collected sufficient incriminating materials in support of the allegation made in the FIR and that fake Indian currency notes have been recovered from the house of the applicant and the FSL report confirmed that the same are fake Indian currency notes, and besides that, the accused is involved in another offence under NDPS Act in Murajhar P.S. Case No. 178/2023, under Section 22(c) of the NDPS Act, and therefore, Mr. Sarma has vehemently opposed the petition.

5. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. B. Sarma, learned Addl. Public Prosecutor.

6. It appears that Murajhar P.S. Case No. 179/2023, under Sections 120(B)/420/406/489(A)/489(C) of the IPC, has been registered on the basis of an FIR lodged by one Ankur Kakati, SI(P) of Murajhar P.S. on 22.08.2023. The essence of allegation made against the present applicant in the FIR dated

22.08.2023, is that acting on a tip off, the informant along with other police officials conducted search in the house of Ismail Ali on 21.08.2023 and recovered one boat shaped golden colour of metallic item, suspected to be fake gold, with a symbol of cross (+) embossed on its surface, weighing 1.7 kg, and he disclosed that he along with one Taj Uddin are involved in transporting of fake gold and fake Indian currency notes and accordingly, a raid was conducted in the house of the applicant, namely, Taj Uddin, and also six numbers of 200 rupees denomination fake Indian currency notes were recovered from his house, and it also appears that from the house of Ismail Ali, suspected psychotropic substances i.e. 129 numbers of cough syrup were recovered and one case being Murajhar P.S. Case No. 178/2023, under Section 22(c) of the NDPS Act was registered.

7. In view of the materials collected so far in the case diary, this Court is left unconvinced that custodial interrogation of the applicant is not required in the interest of the investigation and that his custodial interrogation is indispensable in view of the nature of accusation and the fake currency notes recovered from his house.

8. Accordingly, 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, this application stands dismissed.

9. Case diary be returned.

JUDGE

Comparing Assistant