

GAHC010218972024



2024:GAU-AS:11720

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

Case No. : AB/2790/2024

BIJAY TAMANG @ BIJAY LAMA
S/O LATE DHANBIR LAMA
R/O VILL- UMLAPHER
P.S. ULUKUNCHI
DIST. KARBI ANGLONG, ASSAM
PIN-782410.

VERSUS

THE STATE OF ASSAM
REPRESENTED BY PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. A J HAZARIKA, MR D HAZARIKA

Advocate for the Respondent : PP, ASSAM,

**BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK**

ORDER

27.11.2024

Heard Mr. A H Hazarika, learned Counsel for the petitioner and Mr. K K Parashar, learned Additional Public Prosecutor, Assam for the State.

2) Apprehending his arrest, the petitioner, namely, **Bijay Tamang @ Bijay Lama**, son of Late Dhanbir Lama, Village-Umlapher, Police Station-Ulukunchi District-Karbi Anglong has filed this application under Section 482 BNSS, 2023 praying for pre-arrest bail in Jagiroad Police Station Case No. 159/2024 registered under Sections 316(2)/318(4)/3(5) BNS 2023 corresponding to GR No.1019/2024.

3) As per the FIR dated 14.08.2024 lodged by the complainant before the Officer-in-Charge of Jagiroad Police Station allegation against the petitioner is that he along with two others named in the said FIR, alluring and misrepresenting him and others have grabbed their personal documents having their signatures on them and through those documents the accused persons including the petitioner purchased many light commercial as well as private vehicles in the name of the complainant and others, obtaining loan from Financial Institutions, assuring to pay the monthly instalments, stating that they will utilise those vehicles in the stone queries situated at Umlapher area of Karbi Anglong District on rent basis and that they will pay the monthly instalments of those vehicles. Initially, though the accused persons paid the monthly instalments for those vehicles for 3 to 4 months but afterwards they stopped paying it till filing of the said complaint. After making enquiries by them, they came to know that the accused persons have sold those vehicles to different persons from Karbi Anglong District as well as in the State of Meghalaya. Now, the personnel from the Finance Companies are troubling and disturbing the complainant and others asking them for the payments of monthly instalments of those vehicles and thereby harassing them mentally. It is also stated that many of the sufferers have repaid the money to the Finance Companies by selling off their landed properties. In the said FIR, the complainant alleged that the FIR named accused persons have purchased two Bolero Pickup Vehicles and a Motor Cycle on his name. By the said FIR the complainant requested the authority concerned of Jagiroad Police Station to make necessary enquiry into the matter and to take appropriate action against the accused persons of the case as per law.

4) Accordingly, the said FIR of the complainant dated 14.08.2024 was registered as Jagiroad P.S. Case No. 159/2024 under Sections 316(2)/318(4)/ 3(5) BNS 2023.

5) Petitioner stated that he is a school teacher by profession and is living a simple life by teaching the children in a local school at Karbi Anglong District. It is stated that the main accused of the case Anup Patar was arrested on 24.08.2024 and since then he is in custody and now the petitioner has been targeted by police, pressurizing him to surrender in the case.

6) For the purpose of carrying out commercial activities, the petitioner stated that he purchased a JCB Backhoe Loaded 4WD, Model-3DX Super bearing registration number AS-09-J-8450, taking financial loan from the Hinduja Leyland Finance Limited, Jayanagar Branch, Kamrup (Metro) District, Assam. After few months of purchasing the said JCB as the petitioner started incurring loss, he decided to let out the said JCB and for that purpose he made advertisement through different people. Thereafter said arrested accused Anup Patar approached him personally, requesting him to give his said JCB on rent. For that purpose, the petitioner and said Anup Patar on 24.07.2023 entered into an agreement at Morigaon. After the said agreement, said Anup Patar took physical possession of his said JCB on condition that said Anup Patar shall pay him Rs. 1,20,000/- per month as rent for his said JCB. But the arrested accused of the case sold his said JCB, for which, he, on 19.04.2024 had lodged a written FIR before the Baithalangsui Police Station of West Karbi Anglong District against said Anup Patar. But no action had been taken against said Anup Patar in his Baithalangsui Police Station case and on the other hand, he has been called by police from Jagiroad Police Station in the case in which he has been made an accused. The petitioner stated that thus he became a victim of the criminal actions of the arrested accused person Anup Patar who caused huge financial damage to him, defrauding him in an illegal manner by disposing of his said JCB after grabbing it from the petitioner. In that regard petitioner has also annexed a copy of "Deed of Agreement" dated 24.07.2023 between the petitioner and said Anup Patar with regard to his said JCB executed before a Notary Public at Morigaon as Annexure-4.

7) According to the petitioner he is totally innocent and actually a victim of the criminal activities of the arrested accused of the case Anup Patar. He also stated that the complainant and others lodged the FIR of the case in an alliance with said Anup Patar though he is neither acquainted with the complainant of the case or other victims of the case. As per the petitioner, the arrested accused of the case Anup Patar in league with others filed the case just to trap the

petitioner and that he is totally innocent and further there is no proof against him regarding his involvement in the crime as alleged in the case.

8) Petitioner stated that he is ready to cooperate with investigation of the case and shall abide by any terms and conditions that may be imposed upon him by the Court while considering his bail application.

9) Perused the case diary relating to said Jagiroad P.S. Case No. 159/2024 produced before the Court by Mr. Parashar, learned Additional Public Prosecutor, Assam, that was called for by Order dated 18.11.2024.

10) From the case diary it is seen that the petitioner along with the arrested accused Anup Pator and another are involved in an organised crime of cheating several innocent persons using their personal documents without their knowledge, purchasing numbers of vehicles and two wheelers with finance from financial institutions in the name of the victims and the arrested accused Anup Pator through the petitioner and the other FIR named accused Ajit Das sold those vehicles to various persons in the district of Karbi Anglong and in the State of Meghalaya. In that process the accused persons of the case sold two vehicles and a two-wheeler purchased in the name of the complainant using his personal documents.

11) The case diary also reveals that the police, during investigation, could collect a list of 30 numbers of four-wheelers and 15 numbers of two-wheelers purchased by the arrested accused Anup Pator and the petitioner as well as the other FIR named accused purchased in the name of the victims by their personal documents but could recover only one four-wheeler. Case Diary indicates that the petitioner sold those vehicles purchased in the name of the victims and it is he who knows the buyers of those vehicles. In the note of the investigating officer of the case it is clearly stated that the case is in the early stage of investigation and if now the petitioner is released on bail, it will hamper the investigation of the organised crime as a large number of 4 Wheelers and 2 Wheelers are yet to be found and recovered. The case diary also indicates that the petitioner is evading police. Mr. Parashar, learned Additional Public Prosecutor also vehemently objected for release of the petitioner on pre-arrest bail with regard to the case in hand.

12) Finding sufficient incriminating materials in the case diary pertaining to the involvement of the petitioner in the alleged crime, the court is of the opinion that it is not a fit case to grant anticipatory bail to the petitioner named above in said Jagiroad P.S. Case No. 159/2024.

13) As such, this anticipatory bail application of the petitioner, namely, **Bijay Tamang @ Bijay Lama**, son of Late Dhanbir Lama in Jagiroad Police Station Case No. 159/2024 registered under Sections 316(2)/318(4)/3(5) BNS 2023 corresponding to GR No.1019/2024 stands rejected.

14) Return the case diary herewith.

JUDGE

Comparing Assistant