

GAHC010232622023



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

Case No. : AB/3503/2023

RATUL ALI
S/O- NACHAR ALI R/O- VILL AND P.O- HELESHA, P.S HELESHA DIST-
KAMRUP, PIN - 781382

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MS S S ZIA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

05.02.2024

Heard Mr. S.S. Zia, learned counsel for the applicant and Mr. P.S. Lahkar, learned Additional Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with **G.R.P.S. Case No. 186/2023**, under Section 384 of the IPC, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicant namely, **Ratul Ali** for grant of pre-arrest bail.

3. The said case was registered on the basis of an FIR lodged by one Dhiren Mipun, on 17.09.2023. The essence of allegations made in the FIR is that on

17.09.2023, a complaint has been received by the RPF through toll free No. 139 that on that day at about 8:30 am, while one Sarban Kumar of Nagaon was entering into the Guwahati Railway Station from Paltan Bazar side for onward journey to CPK, having UTS Ticket No. UZE-94145584, some security personnel apprehended him at Paltan Bazar gate for checking his luggage and later on demanded money and he paid a sum of Rs. 1,000/- on QR Code and later on, it has come to light that one Ratul Ali is involved in taking money from the passengers.

4. Ms. Zia, learned counsel for the applicant submits that this Court was pleased to grant interim protection to the applicant, vide order dated 20.11.2023, and pursuant to the said order, the applicant had appeared before the IO and has been cooperating with the investigating agency and therefore, it is contended to make the interim order dated 20.11.2023, absolute in the same terms and conditions.

5. On the other Mr. Lahkar, learned Additional Public Prosecutor submits that he has not received the case diary, though several requisition has been sent to the IO concerned.

6. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition as well as the documents placed on record.

7. It appears that this Court was pleased to grant interim protection to the applicant, vide order dated 20.11.2023, and pursuant to the said order, the applicant had appeared before the IO and has been cooperating with the investigating agency. Further, it appears that on 9 occasions requisition has been sent to the IO, but, the IO has failed to send the case diary.

8. In view of above and having considered the nature of accusation and the punishment prescribed for the same and also considering the fact that the applicant has been cooperating with the investigating agency and that the learned Addl. P.P. has failed to produce the case diary, in spite of getting sufficient opportunity, this Court is of the view that the custodial interrogation of the applicant seems to be unwarranted

here in this case. And therefore, this Court is inclined to make the interim order dated **20.11.2023, absolute** in the same terms and condition.

9. In terms of above this AB stands disposed of.

10. The case diary be returned.

JUDGE

Comparing Assistant