

GAHC010247882023



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

Case No. : AB/3709/2023

KUSHAL SWARGIARY
S/O SHRI ANIL SWARGIARY, R/O KAMARKUCHI, HATIMURA, P.O.-
SONAPUR, P.S.-SONAPUR, DIST-KAMRUP (M), ASSAM, PIN-782402,
BRANCH MANAGER -CENTRAL BANK OF INDIA, DISPUR BRANCH

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR S DEKA

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

26.02.2024

Heard Mr. S. Deka, learned counsel for the applicant. Also heard Mr. B. Sarma, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. Apprehending arrest in connection with Dispur P.S. Case No.2028/2023, under

Section 409/420 IPC, this application under Section 438 Cr.P.C. is preferred by applicant, namely, Kushal Swargiary, 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 Saurabh Modi on 18.10.2023. The essence of allegation made in the aforesaid FIR is that on 13.10.2023, a sum of ₹ 32,91,719/- and on 16.10.2023 another amount of ₹ 19,25,228/- are fraudulently transferred from the current account of the Mukesh Hyundai maintained in the Central Bank of India, Dispur Branch, without any authority of the company based on a letter purported to be signed by the Directors of the company, wherein request was made for RTGS payment to some 3rd party.

4. Mr. Deka, learned counsel for the applicant submits that this Court vide order dated 20.11.2023 was pleased to grant interim protection to the applicant and pursuant to the said order, he had appeared before the I.O. and cooperating with the investigating agency and therefore, a contention is being made that the interim order dated 20.11.2023, may be made absolute, in the same terms and conditions.

5. On the other hand, Mr. B. Sarma, learned Additional Public Prosecutor, Assam, has produced the case diary before this Court and confirmed appearance of the applicant before the I.O. and cooperation being extended by him. Mr. Sarma further submits that the I.O. has achieved substantial progress in the investigation of the case.

6. 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. Sarma, learned Additional P.P.

7. The case diary indicates that the I.O. has achieved significant progress in the investigation of this case. Besides, the applicant has been cooperating with the investigating agency. Since the applicant has been cooperating with the investigating agency and since the I.O. has also achieved significant progress in the investigation of this case, custodial interrogation of the applicant seems to be not warranted 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 conditions. Case diary be returned.

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

Sd/- Robin Phukan
JUDGE

Comparing Assistant