

GAHC010253992023



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

Case No. : AB/3840/2023

SARFARAZ NAWAZ
S/O MOHAMMAD MOULADDIN ANSARI,
R/O 36B/1B, WATGUNGE STREET, KHIDDIRPORE,
KOLKATA-700223, WEST BENGAL.

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR J K Bhuyan

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 26.02.2024

Heard Mr. T. Sk, learned counsel, appearing for the petitioner and Mr. P. Borthakur, learned Additional Public Prosecutor, appearing on behalf of the State respondent No.1. Also heard Mr. KN Choudhury, learned senior counsel, assisted by Mr. D.J. Das, learned counsel for the informant/ respondent No. 2.

This is an application filed under Section 438 Cr.P.C. praying for bail by the

petitioner, apprehending arrest in connection with Duliajan P.S. Case No.258/2023 under Sections 420/ 406/ 409 IPC.

Case diary is received and perused.

Heard both side.

The learned Addl. PP has submitted that the case diary is up-dated till 06.02.2024 and till date the petitioner has not appeared before the I.O. and he is not cooperating him in the investigation. He submits further that there are sufficient materials available in the case diary against the petitioner and he took more than one crore of rupees from the informant with a promise to supply the materials. But, he did not supply the materials to him, more so, the office of the petitioner is not in existence in the said address. Moreover, the petitioner is on interim pre-arrest bail vide order dated 15.11.2023 and enjoying the benefit interim pre-arrest bail. He further submits that vide order dated 08.02.2024, the petitioner was given one more chance to appear before the I.O. after extending his interim pre-arrest bail, but he did not appear before the I.O. and violated the conditions of the order of interim pre-arrest bail and the subsequent orders extending his interim protection given by this Court to him.

Mr. T. Sk, learned counsel for the petitioner has submitted that the petitioner could not appear before the I.O. due to his illness, and subsequently, he was not in a position to appear before the I.O. as there was some threats from the informant for which he lodged an FIR.

Considering the order dated 08.02.2024, it is seen that the petitioner was given one more chance to appear before the I.O. considering the submission of the leaned counsel for the petitioner, but in spite of the chance given to him, he did not appear before the I.O. and did not extend his cooperation in the

investigation and accordingly it is seen that he has violated the terms and conditions of the order dated 15.11.2023 whereby he was granted interim pre-arrest bail with a direction to appear before the Investigating Officer. Moreso, his interim order was extended on several occasions and on the last occasion i.e. on 08.02.2024, his interim pre-arrest bail was extended. But, he did not appear before the I.O. nor extended his cooperation. So, considering the conduct of the petitioner and other aspect of the matter, this Court is of the view that it is not a fit case to extend the privilege of pre-arrest bail to the petitioner and the bail application stands rejected.

The bail application is dismissed.

The interim order dated 15.11.2023, stands vacated.

JUDGE

Comparing Assistant