

GAHC010268892023



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

Case No. : AB/4051/2023

BABLA SAIKIA
S/O SRI BABUL SAIKIA
R/O LANKA TOWN,
WARD NO. 7, P.O. AND P.S. LANKA
DIST. HOJAI, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR B CHANDA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 22.02.2024

Heard Mr. B. Chanda, learned counsel for the petitioner. Also heard Mr. K. K. Das, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 438 of the Code of Criminal Procedure praying for grant of pre-arrest bail to the accused/petitioner, who is apprehending arrest in connection with Lanka P.S. Case No. 255/2021, under sections 448/376/511/506 of the Indian Penal Code (PRC Case No. 1334/2021).

Scanned copy of the LCR along with the Case Diary has already been received. Perused the same. Heard both sides.

It is submitted by Mr. Chanda, learned counsel for the petitioner, that there are lots of contradictions in the statement made in the F.I.R., which is not at all believable. More so, the accused/petitioner was never searched by police during the investigation of the case nor was he ever intimated during the pendency of this case. However, he is ready and willing to appear before the learned Court below as and when the date is fixed for. But, as NBWA has already been issued against him, there is an apprehension of arrest in connection with this case and hence, the present petitioner has been filed seeking pre-arrest bail.

In this context, Mr. Das, learned Additional Public Prosecutor, has submitted that the accused/petitioner never appeared before the learned Court below even after receipt of the summon. The Order Sheet reveals that on one occasion, the accused/petitioner appeared before the learned Court below through his engaged counsel, but thereafter he remain absent and did not appear before the learned Court below even after the execution of theailable warrant, which reveals from the Order dated 11.10.2023. So, considering the conduct of the accused/petitioner, he should not be granted with the privilege of

pre-arrest bail.

Considering the submissions made by the learned counsels for both sides and also considering the fact that the accused/petitioner was never searched by police during the investigation of this case, as submitted by learned counsel for the petitioner, and further considering the view of the Hon'ble Apex Court passed in the case of **Aman Preet Singh Vs. CBI (2021 AIR SC 4154)**, wherein it has been held that if the custody of the accused was not required during the entire period of investigation, in such a scenario, it is proper to enlarge the accused on bail, I hereby direct the accused/petitioner to appear before the Court below within 15 (fifteen) days from today with a proper application for bail which shall be considered by the learned Court below in accordance with law. And, till then, the execution of NBWA, issued against the accused/petitioner, shall remain stayed/suspended.

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

JUDGE

Comparing Assistant