

GAHC010273942023



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

Case No. : AB/4103/2023

ABDUL RAHIM
S/O JAGIR ALI, R/O BEHARBARI, SONKUCHI, P.S.-BASISTHA, DIST-
KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. N J DUTTA

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

14.03.2024

Heard Mr. M.M. Zaman, learned counsel for the applicant and also heard Mr. B. Sarma, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. Apprehending arrest in connection with Basistha P.S. Case No.592/2023, under Section 380/411 IPC, this application under Section 438 Cr.P.C. is preferred by applicant,

namely, Abdul Rahim, 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 Avinash Kr. Singh, on 27.09.2023. The essence of allegation made in the aforesaid FIR is that some valuable items including 10 pieces of Truck Battery, iron angle, iron plates and welding machine were stolen from his workshop and he apprehended one thief and questioned him about whereabouts of the stolen items, then the thief provided information and led them to a dump and found the Dump Manager, who identified himself as employee, but suddenly he fled away.

4. Mr. Zaman, learned counsel for the applicant submits that this Court vide order dated 21.12.2023 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. Mr. Zaman further pointed out that the present applicant is Abdul Rahim and the owner of the dam is Rahim Ali and they are two different persons and that the present applicant is no way involved with the offence alleged in the FIR and therefore, it is contended to make the interim order dated 21.12.2023, 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 submits that the present applicant and the owner of the dam are the same person and that the stolen articles have already been recovered from the dam of the present applicant. However, Mr. Sarma submits that the applicant has been cooperating with the investigating agency and he has appeared before the I.O. and his statement is also recorded.

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. It appears that the I.O. has achieved substantial progress in the investigation of this case and the stolen articles have already been recovered and seized. Besides, the

applicant also has appeared before the I.O. and cooperating with the investigating agency. In view of above, 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 21.12.2023, 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