

GAHC010280102023



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

Case No. : AB/4175/2023

RAFIKUL ISLAM
S/O JAFAR ALI
R/O VILL- KARAGARI NONKE, BLK NO. 12, BANGAON, P.O. GOLIBANDHA,
P.S. SARTHEBARI
DIST. BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : G UDDIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 21.02.2024

Heard Mr. H.R.A. Choudhury, learned Senior counsel assisted by Mr. G. Uddin, learned counsel for the applicant. Also heard Mr. K.K. Parasar, learned CGC for the respondent.

2. Apprehending arrest in connection with C.R. Case No. 58^c/2023, arising

out of RPF/POST/NGC Case No. 28/2023, under Section 3(a) of the Railway Property (Unlawful Possession) Act, 1966, this application under Section 438 Cr.P.C. has been preferred by the applicant, namely, Rafikul Islam, 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 Sr. Section Engineer (Works), N.F. Railway, Jagiroad, on 28.11.2023. The essence of allegation made in the FIR dated 28.11.2023, is that during his visit at PHI & TKC, he found 609.0 m Z-type sheet piles were missing, out of which 84.0 Rm Z-type sheet piles were found loaded on a trailer, bearing No. NL01AB5586, at 14.40 hours and also 987.0 Rm U-type sheet piles were stolen and 165.0 Rm sheet piles were found loaded in the aforesaid trailer.

4. Mr. Choudhury, learned Senior counsel for the applicant submits that the applicant had been granted the privilege of interim pre-arrest bail, vide order dated 13.12.2023 and pursuant to the said order, he has also appeared before the I.O. and he has been cooperating with the investigating agency and that he is no way involved in the offence alleged in the FIR, and therefore, a contention is being made that the interim order dated 13.12.2023, may be made absolute in the same terms and conditions.

5. On the other hand, Mr. K.K. Parasar, the learned CGC has produced the case diary before this Court and submits that the I.O. has collected some materials to show the complicity of the applicant with the offence alleged in the FIR. However, Mr. Parasar submits that the applicant has appeared before the I.O. and that he has been cooperating with the investigating agency.

6. Having heard the submission of learned Advocate of both sides, I have gone through the application and the documents placed on record and also

perused the case diary with the assistance of Mr. Parasar, learned CGC.

7. The case diary indicates that the I.O. has achieved substantial progress in the investigation of the case and that the main culprits were arrested and forwarded to the jail hazot and they were also enlarged on bail.

8. Since the applicant has been cooperating with the investigating agency and the I.O. has also achieved substantial progress in the investigation of the case, further custodial interrogation of the applicant may not be warranted here in this case and accordingly, the interim order dated 13.12.2023, is hereby made absolute with the same terms and conditions.

9. In terms of above, this application stands disposed of.

10. Case diary be returned.

JUDGE

Comparing Assistant