

GAHC010281842023



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

Case No. : AB/46/2024

LULU HUSSAIN
S/O LATE MAHAMMAD HUSSAIN
R/O VILL- SEPON SOKOLIA NAHARANI BLOCK, P.S. MORAN,
P.O. SEPON, DIST. DIBRUGARH, ASSAM, PIN-785673

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MS M DAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

22.01.2024

Heard Ms. M. Das, learned counsel for the applicant and also heard Ms. A. Begum, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. Apprehending arrest in connection Demow P.S. Case No.42/2023 under Section 120(B)/121A/122/387/511 IPC, read with Section 10/13 of UAPA Act, this application under Section 438 Cr.P.C. is preferred by applicant, namely, Lulu Hussain, for grant of pre-arrest bail.
3. The above noted case has been registered on the basis of an FIR lodged by Inspector Binod Kumar Bora on 07.07.2023 of Demow P.S. The essence of allegation made in the aforesaid FIR is that one Ganesh Phukan, Dibyajyoti Chetia, Lulu Hussain and Roshan Ali are involved in collection of money from the business establishments and also from the owners and managers of the Tea Garden located under the Demow P.S. elaka and they have apprehended one Roshan Ali and from him one mobile phone and also one demand letter addressed to the Manager of Krishnabihari Tea Estate demanding a sum of Rs.7,00,000/- has been recovered.
4. Ms. Das, learned counsel for the applicant submits that the applicant is innocent and he is no way involved with the offence alleged in the FIR and some of the co-accused have already been enlarged on bail by the learned Sessions Judge, Sivasagar and the applicant is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.
5. On the other hand, Ms. A. Begum, learned Additional Public Prosecutor has produced the case diary before this Court and submits that the I.O. has collected sufficient incriminating materials against the applicant and that his custodial interrogation is necessary in the interest of investigation, and therefore, it is contended to dismiss the petition.
6. Having heard the submissions of the learned counsels of both sides, I have carefully perused the petition and the documents placed on record and

also perused the case diary with the assistance of Ms. Begum, the learned Addl. Public Prosecutor, Assam.

7. It appears that the materials, so far collected in the case diary, indicates complicity of the applicant with the offence alleged in the FIR. Investigation is going on and at this stage it cannot be said custodial interrogation is not required in the interest of investigation. His custodial interrogation appears to be indispensable in the interest of investigation. Having regards to above and also having regards to nature and gravity of the offence and the punishment prescribed for the same this court is of the considered opinion that this is not a fit case where the privilege of pre-arrest can be extended to the applicant. Accordingly the petition stands dismissed.

8. The Case Diary be sent back.

JUDGE

Comparing Assistant