

GAHC010286132023



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

Case No. : AB/4271/2023

AHMED ALI @ MD AHMED ALI
S/O LATE SIDDIQUE ALI
R/O VILL- LOCHANABARI, MORIGAON,
P.S. AND P.O. MORIGAON, PIN CODE-782126, DIST. MORIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. S C BISWAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

29.01.2024

Heard Mr. S.C. Biswas, 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 Cyber P.S. Case No.07/2023, under Section

120B/419/420/511/507 IPC, read with Section 66D of the IT Act, this application under Section 438 Cr.P.C. has been preferred by the applicant, namely, Ahmed Ali @ Md. Ahmed Ali, 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 Hridayjit Barman, APS, Superintendent of Police, BI(EO), Assam, on 13.09.2023. The essence of allegation made in the aforesaid FIR is that a person, introducing himself as Hridayjit Barman, Superintendent of Police, CID, called up one Ashif Alam Rahman of Kharupetia from his mobile number 8135869617 twice on 11.09.2023 and on 12.09.2023 directing the person to appear before him on 14.09.2023 at CID office to settle an alleged warrant and while checking in truecaller application, it has been found that the person has deceitfully set the truecaller application in name of Hridayjit Barman, EO SP CID with a view to mislead the innocent people by using cyber technology for his wrongful gain.

4. Mr. Biswas, learned counsel for the applicant submits that this Court vide order dated 20.12.2023 was pleased to grant the privilege of interim pre-arrest bail to the applicant and pursuant to the said order, the applicant had appeared before the I.O. and he has been cooperating with the investigating agency and that his name is not there in the FIR and he is no way involved with the offence alleged in the FIR and he is ready to cooperate with the investigating agency and therefore, it is contended that the interim order, dated 20.12.2023, may be made absolute, in the same terms and conditions.

5. On the other hand, Mr. B. Sarma, learned Additional Public Prosecutor, Assam, submits that he has received the case diary, but there is no statement of the applicant though his counsel submits that he had appeared before the I.O. pursuant to the order dated 20.12.2023. However, Mr. Sarma submits that the materials collected so far in the case diary are inadequate to show the complicity of the applicant with the offence alleged in the FIR.

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. In view of the submission of learned Advocates of both sides and also having gone through the case diary produced before this Court, custodial interrogation of the applicant seems to be not warranted here in this case and therefore, the interim order dated 20.12.2023 is hereby made 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