

GAHC010286682023



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

Case No. : AB/4277/2023

MD ABDUL MALIK
S/O LT. SAMAMUD MULLA
R/O MIRZABAGH, P.O. AND P.S. DIBRUGARH, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. U K BARMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

01.02.2024

Heard Mr. H. Ali, 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 Laharighat P.S. Case No.288/2023, under Section 379/411/417/419/465/468/471 IPC, this application under Section 438 Cr.P.C. has

been preferred by the applicant, namely, Md. Abdul Malik, 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 S.I. Prabin Ch. Borah on 17.11.2023. The essence of allegation made in the aforesaid FIR is that acting on a tip off, he along with staff on 16.11.2023, at about 11:30 a.m. found one Babul Islam, Eusuf Ali, Javed Akhtar and Kamal Hussain possessing 50 nos. of water pump and they failed to produce any document regarding the said pumps.

4. Mr. Ali, learned counsel for the applicant submits that the applicant was granted the privilege of interim pre-arrest bail by this Court, vide order dated 20.12.2023 and pursuant to the said order, he had appeared before the I.O. and he has been cooperating with the investigating agency and that his name find no mention in the FIR and the allegation against him is that he has issued e-way bill being the proprietor of M/s Malik Garments, Dibrugarh and that he is ready to cooperate with the investigating agency and therefore, it is contended to make the interim order dated 20.12.2023, absolute, in the same terms and conditions.

5. On the other hand, Mr. B. Sarma, learned Additional Public Prosecutor, Assam, has opposed the petition on the ground that custodial interrogation of the applicant is necessary as 640 nos. of pumps were stolen in the name of Matak Autonomous Council Warehouse at Guwahati.

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. Indisputably, the applicant has been cooperating with the investigating agency and he has appeared before the I.O. pursuant to the order of this Court dated 20.12.2023. Further, it appears from the case diary that the I.O. has achieved substantial progress in the investigation of this case and that custodial interrogation of the applicant seems to be not warranted in the interest of investigation. Therefore, this Court is inclined to make the

interim order dated 20.12.2023, 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