

GAHC010286912023



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

Case No. : AB/4250/2023

MOON ALI
S/O MD. KADIR ALI
R/O DHAKPARA
P.O. AND P.S. CHANGSARI
DIST. KAMRUP, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A K AZAD

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

06.02.2024

Heard Mr. A. K. Azad, learned counsel for the petitioner. Also heard Mr. K. K. Das, learned Additional Public Prosecutor for the State respondent.

This is an application filed under Section 438 of the Code of Criminal Procedure, 1973, praying for grant of pre-arrest bail to the accused/petitioner, who is apprehending arrest in connection with Changsari P.S. Case No. 140/2023 under Sections 341/323/392/34 of the Indian Penal Code.

Case Diary has been received and I have perused the same.

It is submitted by the learned counsel for the petitioner, Mr. Azad, that the present petitioner is not at all involved in the alleged incident as stated in the FIR. It is contended by the petitioner that on the day of incident there was some altercation between the parties and apart from that, no such incident of snatching a gold chain from the neck of the informant's mother along with one mobile handset and cash of Rs.10,000/- (Rupees Ten thousand) only had occurred. Thus, only to harass the petitioner, the informant has filed the FIR with some false and concocted allegations. Further, the accused/petitioner is still ready and willing to co-operate with the I.O. in further investigation of the case, if he is granted the privilege of interim pre-arrest bail.

On the other hand, Mr. Das, learned Additional Public Prosecutor has submitted that, the statement of the informant reveals that the accused petitioner was present at the time of the incident and snatched a gold chain from the neck of the informant's mother along with one mobile handset and

cash of Rs.10,000/- (Rupees Ten thousand) only. Accordingly, he submits that the custodial interrogation of the present accused/petitioner may be necessary in this case to unearth some more facts of the case.

Considering the submissions of learned counsels of both sides and also considering the nature of offence as well as the materials in the Case Diary, I find that custodial interrogations of the present accused/petitioner is not necessary in this case and therefore, I find it a fit case to grant the privilege of pre-arrest bail to the accused/petitioner.

Accordingly, it is provided that in the event of arrest of the accused/applicant, namely, Moon Ali, in connection with Changsari P.S. Case No. 140/2023 under Sections 341/323/392/34 of the Indian Penal Code, he shall be enlarged on pre-arrest bail on his executing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the arresting authority, subject to the following conditions:

- (i) that the petitioner shall make himself available for interrogation by the Investigating Officer within 7(seven) from today.
 - (ii) that the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer; and
 - (iii) that the petitioner shall not leave the jurisdiction of the concerned jurisdictional Magistrate, without prior permission.
- In terms of above, this anticipatory bail application stands disposed of.

The Case Diary be sent back.

JUDGE

Comparing Assistant