

GAHC010290362023



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

Case No. : AB/4367/2023

BIPUL CHANDRA KALITA
S/O LATE HARICHARAN KALITA
R/O HOUSE NO. 48, CHANDRA CHOUDHURY PATH,
BELTOLA, GUWAHATI -781028, IN THE DIST. KAMRUP (M), ASSAM
MOBILE NO. 9678831715

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. T BARUAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

03.01.2024

Heard Ms. A. Das, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor, appearing for the State of Assam.

This application under Section 438 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, Bipul Chandra Kalita, who is apprehending his arrest in connection with Jalukbari P.S. Case No. 715/2023, under Section 420/406/379/34 of the Indian Penal Code.

The gist of accusation in this case is that on 07.12.2023, one Pranjali Dewri had lodged an FIR before the Officer-In-Charge of Jalukbari Police Station, *inter-alia*, alleging that the present petitioner has purchased the four wheeler vehicle i.e. Mahindra XUV 500 WB bearing Registration No. AS02M0786 from the informant on the condition that he would pay the remaining installment along with a sum of Rs. 1,50,000/- to the informant within a week of the execution of an agreement. However, it is alleged that even after expiry of the said period as per the agreement the present petitioner failed to pay the agreed amount and also failed to return back the vehicle.

Learned counsel for the petitioner has submitted that the petitioner has already paid Rs. 1,55,000/- to the informant through UPI mode and in her support of her submission she has annexed as Annexure-2 series the copies of UPI payment the snap shots of UPI payment made by the present petitioner to the informant through google pay.

It is also submitted that the petitioner after payment of Rs. 1,55,000/- to the informant came to know that the informant has not paid the installments to the finance Company from whom the vehicle was financed and thereafter, the petitioner himself started paying the installments to the said finance company.

Learned counsel for the petitioner has also submitted that the disputes between the parties are of civil nature and the present FIR has been lodged only to harass the present petitioner.

It is also submitted by the learned counsel for the petitioner that the

petitioner is ready to co-operate in the investigation and therefore, he may be allowed to go on anticipatory bail as prayed for in this case.

On the other hand, learned Additional Public Prosecutor has also submitted that the nature of allegations levelled in the FIR shows that the dispute is predominantly civil in nature and therefore, custodial detention may not be necessary. Hence, considering the submissions made by the learned counsel for the petitioner as well as learned Additional Public Prosecutor, the above named petitioner is hereby directed to appear before the Investigating Officer of Jalukbari P.S. Case No. 715/2023, within a period of 10(ten) days from the date of this order and co-operate in the investigation. If he does so within the stipulated period of time, in the event of his arrest in connection with Jalukbari P.S. Case No. 715/2023, the above named petitioner shall be allowed to go on interim bail of Rs. 30,000/- with a suitable surety of like amount to the satisfaction of the arresting authority, subject to the conditions that:-

- (i) the petitioner shall not directly or indirectly make any inducement, threat or promise to the informant or to any other persons who may be acquainted with the facts of the case so as to dissuade such person from disclosing such facts before the Investigating Officer or to any Court; and
- (ii) the petitioner shall co-operate in the investigation.

With the above observation, this bail application is hereby disposed of.

JUDGE

Comparing Assistant