GAHC010228152026

2026:GAU-AS:15348

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

Case No. : AB/2607/2026

DIPEN CHATIA PHUKON
S/O- KT. SUNBON CHETIA PHUKON,
R/O- VILLAGE- LAKWA,
NEAR LAKWA STATION CHARIALI,
P/O AND P/S LAKWA,
DISTRICT- SIVASAGAR, (ASSAM),
PIN- 785698.

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PP, ASSAM

2:THE COMMISSIONER OF POLICE
BANGALORE CITY 2
ALI ASKAR ROAD
VASANTH NAGAR
BENGALURU
KARNATAKA
PIN -560001

Advocate for the Petitioner : J S AHMED, I ISLAM,A S KHAN,M W AHMED

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE ANJAN MONI KALITA

ORDER

Date : 12-10-2026

Heard Mr. A. M. Bora, learned Senior Counsel, assisted by Mr. V. Choudhury, learned Counsel, appearing for the accused applicant and Ms. A. Begum, learned Additional Public Prosecutor for the State.

2. This is an application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 praying for pre-arrest bail for a period of four weeks in favour of the accused applicant in connection with FIR/Case No. 415/2026, under Section 66(D) of the IT Act and Sections 318(4)/319(2) of the BNS, 2023 registered at Cyber Crime Police Station, South Division, Bangalore City, to enable him to approach the jurisdictional High Court for transit anticipatory bail.

3. On 06.10.2026, the accused applicant received a notice under Section 35(3) of the BNSS, dated 24.09.2026, issued by the Investigating Officer, Cyber Crime Police Station, South Division, Bangalore City. The notice informed him that, during the investigation of FIR/Case No. 415/2026, dated 09.09.2026, registered under Section 66D of the Information Technology Act, 2000 and Sections 318(4) and 319(2) of the BNS, 2023, at Cyber Crime Police Station, South Division, Bangalore City, it had been found that there were reasonable grounds to question him to ascertain the facts and circumstances relating to the investigation of the aforesaid case. Accordingly, he was directed to appear before the Investigating Officer at Cyber Crime Police Station, South Division, Bangalore City, within 7 (seven) days of receipt of the notice.

4. Mr. Bora learned Senior Counsel appearing for the accused applicant submits that the account number mentioned in the notice issued under Section

35(3) of the BNSS belongs to the proprietorship wherein the accused applicant is the registered owner of M/s Himalaya Supply, bearing GST Registration No. 18AMUPC0070C1ZD vide License No. UBIN: 300 47670 AMUPC0070C/3/2023. It is further submitted that the accused applicant is engaged in the coal business and that, on 18.08.2026, he travelled to Ghaziabad via Delhi. One of his business partners, *Sri Sanjeev Singh*, introduced him to Sri *Akshay Bhatti* of Ghaziabad, Uttar Pradesh. At the request of *Sri Akshay Bhatti*, the accused applicant travelled to Ghaziabad in connection with an advance payment for a coal business transaction. After reaching the hotel on 29.08.2026, he received a total amount of approximately ₹52 lakh in his current account bearing No. 2155053000933 with ICICI Bank, in two transactions of Rs.27,91,332/- and 25,00,000/- respectively. However, after some time, he was asked to return the entire advance amount. He stated that he would return the money after reaching home. However, he was allegedly compelled to hand over his ATM card and phone to the aforesaid party, who had paid the advance amount and the said party accordingly withdrew the amount.

5. Mr. Bora, learned Senior Counsel submits that, after the incident, the accused applicant returned to Guwahati. On 19.09.2026, he received information from his bank that his bank account has been frozen in connection with the aforesaid two transactions. It is submitted that, in view of the aforesaid incident, the accused applicant had lodged an Ejahar at Noonmati Police Station, vide G.D. Entry No. 22/2026, dated 24.09.2026.

6. The learned Senior Counsel submits that, having received the notice under Section 35(3) of the BNSS, the accused applicant is willing to appear before the Investigating Officer. He submits that the accused applicant is apprehending arrest and has, therefore, filed the present application seeking anticipatory

transit bail to enable him to appear before the Investigating Officer and to file an appropriate application for anticipatory bail before the jurisdictional High Court. Accordingly, the accused applicant has prayed for interim relief in the form of transit bail to enable him to appear before the Investigating Officer. The learned Senior Counsel submits that the accused applicant received the notice under Section 35(3) of the BNSS only on 06.10.2026 and, therefore, could not appear before the Investigating Officer within the stipulated period of seven days. Considering his willingness to cooperate with the investigation and appear before the Investigating Officer, it is submitted that he should be granted interim transit anticipatory bail.

7. The learned Senior Counsel has referred to the decision of the Hon'ble Supreme Court in the case of *Priya Indoria vs. State of Karnataka and Ors.*, reported in *(2024) 4 SCC 749*, wherein the Hon'ble Supreme Court laid down the principles governing the grant of transit anticipatory bail.

8. On the other hand, Ms. Begum, learned Additional Public Prosecutor for the State fairly submits that transit bail may be granted for a limited period, having regard to the facts and circumstances of the case.

9. The relevant principles laid down in *Priya Indoria* (supra), particularly paragraphs 93 and 94, are extracted hereinbelow:

> *"93.1. Prior to passing an order of limited anticipatory bail, the investigating officer and public prosecutor who are seized of the FIR shall be issued notice on the first date of the hearing, though the Court in an appropriate case would have the discretion to grant interim anticipatory bail.*
>
> *93.2. The order of grant of limited anticipatory bail must record reasons as to why the applicant apprehends an inter-state arrest and the impact of such grant of limited anticipatory bail or interim protection, as the case may*

be, on the status of the investigation.

93.3 The jurisdiction in which the cognizance of the offence has been taken does not exclude the said offence from the scope of anticipatory bail by way of a State Amendment to Section 438 of CrPC.

93.4 The applicant for anticipatory bail must satisfy the Court regarding his inability to seek anticipatory bail from the Court which has the territorial jurisdiction to take cognizance of the offence. The grounds raised by the applicant may be -

a) a reasonable and immediate threat to life, personal liberty and bodily harm in the jurisdiction where the FIR is registered;

b). the apprehension of violation of right to liberty or impediments owing to arbitrariness;

c. the medical status/ disability of the person seeking extra-territorial limited anticipatory bail.

94. It would be impossible to fully account for all exigent circumstances in which an order of extra territorial anticipatory bail may be imminently essential to safeguard the fundamental rights of the applicant. We reiterate that such power to grant extra- territorial anticipatory bail should be exercised in exceptional and compelling circumstances only which means where, denying transit anticipatory bail or interim protection to enable the applicant to make an application under Section 438 of CrPC before a Court of competent jurisdiction would cause irremediable and irreversible prejudice to the applicant. The Court, while considering such an application for extra- territorial anticipatory bail, in case it deems fit may grant interim protection instead for a fixed period and direct the applicant to make an application before a Court of competent jurisdiction."

10. On perusal of the notice dated 24.09.2026 issued to the accused applicant by the I.O. of the Cyber Crime Police Station South Division, Bengaluru City, it is seen that the accused applicant was intimated that if he fails to comply with the

conditions/restrictions of the notice, then the accused applicant will be arrested by the I.O., in accordance with the provisions of the law.

11. In view of the aforesaid, it is seen that there is a serious apprehension of arrest of the accused applicant in the event he appears before the concerned I.O. as he has already defaulted in appearing before the concerned I.O. within 7 (seven) days after the receipt of the Notice.

12. This Court has also considered the fact that the notice was issued by Cyber Crime Police Station, South Division, Bangalore City and that the accused applicant would have to travel to Bangalore to appear before the Investigating Officer. Since the instant bail is only for facilitating the accused applicant to appear before the I.O., therefore, this Court is of the considered opinion that notice to the respondent No. 2/the Commissioner of Police will consume some more time causing further delay in the case, hence notice to the respondent No. 2 is dispensed with. This Court finds this case a fit case to exercise the discretion to grant interim protection for a fixed period and to direct the accused applicant to make an application before the Court of competent jurisdiction, as otherwise, there is a scope for causing irremediable and irreversible prejudice to the accused applicant.

13. Accordingly, it is directed that in the event of the arrest of the accused applicant within 21 days (three weeks) from today in connection with the aforesaid case, he shall be released on transit bail on executing of personal bond of Rs.50,000/- with two sureties of the like amount to the satisfaction of the arresting authority subject to the condition that the accused applicant shall appear before the I.O. of the case within 21 (twenty one) days i.e., 3 (three) weeks from today.

14. This Court makes it clear that the present interim protection in the form of transit bail has been granted to the accused applicant only in order to enable the accused applicant to approach the Court of competent jurisdiction for anticipatory bail on merits.

15. Anticipatory bail application stands disposed of.

JUDGE

Comparing Assistant