GAHC010240342025

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

**Case No. : AB/2599/2025**

DIPEN CHETIA PHUKON
SON OF SUNBOR CHETIA PHUKON,
R/O LAKWA STATION CHARIALI, P.S.LAKWA, DIST. SIVASAGAR, ASSAM,
PIN- 785688

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PP, ASSAM

**Advocate for the Petitioner** : MR P K DAS, MR. M ALOM

**Advocate for the Respondent** : PP, ASSAM, G KAUSHIK,MR S BORTHAKUR,MS. D SARMAH,P KHATANIAR,R A LAHKAR,MR S NEOGI(INFORMANT),MR. A DEKA(INFORMANT),MR. S BORTHAKUR(INFORMANT),U U KHAN (INFORMANT),MR. A AHMED (INFORMANT),MR A AHMED (INFORMANT),MR. M A CHOUDHURY (INFORMANT)

**BEFORE**
**HONOURABLE MR. JUSTICE ANJAN MONI KALITA**

**ORDER**

**Date :** ***06.11.2026***

Heard Mr. P. K. Das, learned counsel for the accused applicant. Also heard Mr. B. Sharma, learned Additional Public Prosecutor for the State and Mr. S. Borthakur, learned Senior Counsel assisted by Mr. B. Kanjilal, and Mr. R. Kakati,

learned counsel for the informant.

**2.** This is an application filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, praying for granting pre-arrest bail to the accused applicant, in connection with Lakwa Police Station Case No. 09/2026, registered under Sections 318(4)/336(2)/361(2) of BNS, 2023.

**3.** The gist of allegation as narrated in the complaint dated 04.09.2025, before the Senior Superintendent of Police, Sivasagar, by one Arun Saraf, Director of Abhinna Coal Washeries Pvt. Ltd. is that the accused applicant had promised the informant that his firm, namely, Himalayan Supply, would source coal and supply the same to the informant. In terms of the aforesaid agreement, an advance payment of Rs.2,50,00,000/- (Rupees Two Crore Fifty Lakh Only) was made by the informant to the accused applicant. However, it is alleged that upon receipt of the aforesaid amount, the accused applicant became completely untraceable, and the informant found that all his mobile phones were switched off. Faced with the aforesaid situation, the informant made enquiries regarding the matter and, upon enquiry, discovered that the place indicated by the accused applicant as the source from where coal would be procured, had no scope of any such sourcing, as there was no mine located in the said area and there was no possibility of any extraction or transportation of coal from the said locality.

**4.** On receipt of the FIR, the police registered Lakwa Police Station Case No. 09/2026, under the aforementioned sections.

**5.** It is seen that on 28.11.2025, the counsel appearing for the accused

applicant submitted before this Court that a portion of the amount involved in the aforesaid transaction of Rs.2,50,00,000/- had already been repaid to the informant and that the remaining amount would also be paid after discussion with the informant. In view of the aforesaid submission, a prayer was made for granting interim protection to the accused applicant. Upon consideration of the aforesaid assurance made by learned counsel appearing for the accused applicant, this Court granted interim pre-arrest bail to the accused applicant.

**6.** However, when the matter was taken up today, it has been intimated to this Court by the learned counsel appearing for the accused applicant that no amount could be paid by the accused applicant to the informant as yet, in terms of the assurance given on 28.11.2025.

**7.** The Case Diary in the instant case has also been received and the same is perused.

**8.** Learned Additional Public Prosecutor, Mr. B. Sharma, has opposed the prayer for pre-arrest bail, submitting that sufficient *prima facie* materials are available against the accused applicant, indicating his involvement in the commission of the alleged offence, and, therefore, the accused applicant should not be granted the privilege of pre-arrest bail at this stage.

**9.** Mr. S. Borthakur learned Senior Counsel appearing for the informant, has also opposed the prayer for bail, submitting that the amount paid by the informant had been misappropriated by the accused applicant for his personal gain and no coal had been supplied to the informant. Therefore, according to the learned Senior Counsel, the element of deception was present from the very

inception of the transaction.

**10.** This Court has heard the submissions made by learned counsel appearing for the respective parties and has also considered the materials available in the Case Diary.

**11.** Taking into account the materials on record, as well as the *prima facie* materials indicating the involvement of the accused applicant in the alleged offence, as reflected in the FIR and the Case Diary, this Court is not inclined to grant any relief to the accused applicant at this stage.

**12.** Accordingly, the interim pre-arrest bail granted vide order dated 28.11.2025 stands vacated, and the instant application for pre-arrest bail is dismissed as rejected.

**JUDGE**

**Comparing Assistant**