

GAHC010043722024



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

Case No. : AB/552/2024

KANGKAN DAS
S/O BHABEN DAS,
R/O DHULIRGURI,
P.O.- THAMNA,
P.S.- MUSHALPUR, DIST.- BAKSA,
ASSAM, PIN- 781337.

VERSUS

THE STATE OF ASSAM
REP. BY THE P.P., ASSAM.

Advocate for the Petitioner : MR. N K KALITA

Advocate for the Respondent : PP, ASSAM

**BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN**

ORDER

12.03.2024

Heard Mr. N.K. Kalita, 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 Mushalpur P.S. Case No.08/2024, under Section 406 IPC and added Section 120B/420 IPC, this application under Section 438 Cr.P.C. is preferred by applicant, namely, Kangkan Das, 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 one Rabjar Mushahary, on 01.02.2024. The essence of allegation made in the aforesaid FIR is that one Bidintha Boro asked him to purchase one Yamaha R15 MBSVI motorcycle from Mushalpur Yamaha Dealer on 15.10.2023 and he paid down payment of ₹ 66,937/- and also paid a sum of ₹ 8,000/- being the first EMI. But, he failed to pay the EMI of every month and later on, also stop picking up his phone calls, for which he had to pay the EMI for the 2nd month.

4. Mr. Kalita, learned counsel for the applicant submits that the name of the applicant finds no mention in the FIR and no notice under Section 41A Cr.P.C. has been served upon him and that he is innocent and ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, Mr. B. Sarma, learned Additional Public Prosecutor, Assam, has produced the case diary before this Court and submits that the I.O. has collected sufficient incriminating materials against the present applicant and that he is the main person behind this incident and that the applicant is also involved in many other such incidents and that is his prime business and therefore, Mr. Sarma has opposed the petition.

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. The case diary indicates that the I.O. has collected sufficient incriminating materials against the present applicant and the investigation is going on and extending the privilege of pre-arrest bail to the applicant at this stage will misdirect the investigation. And therefore, this Court is inclined to dismiss the petition.

8. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant