

GAHC010038532024



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

Case No. : AB/447/2024

ARABINDA DEKA
S/O SRI BASANTA DEKA
R/O ALENGIDOL,
NEAR KALI MANDIR,
NALBARI,
PIN-781334, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE P, ASSAM

Advocate for the Petitioner : MR D J HALOI

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

06.03.2024

Heard Mr. D.J. Haloi, learned counsel for the applicant and also heard Mr. B. Sarma, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application, under Section 438 Cr.P.C. is preferred by the applicant, namely, Arabinda Deka, who has been apprehending arrest in connection with Rangia P.S. Case

No.62/2023, under Section 120B/419/420/468 IPC, 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 Sanjit Das, authorized signatory of Bandhan Bank Limited, on 29.12.2022. The essence of allegation made in the aforesaid FIR is that 8(eight) persons, namely, Mainul Ali has availed a loan of ₹ 8,00,000/- on 10.01.2022, Dhanjit Talukdar has availed a loan of ₹ 5,00,000/- on 10.02.2022, Dilip Das has availed a loan of ₹ 3,00,000/- on 11.02.2022, Renu Rajbongshi has availed a loan of ₹ 5,00,000/- on 24.02.2022, Tabibur Rahman has availed a loan of ₹ 3,00,000/- on 08.03.2022, Dakshina Barman has availed a loan of ₹ 3,00,000/- on 10.03.2022, Runuma Saud has availed a loan of ₹ 5,00,000/- on 11.03.2022 and Bhabesh Ch. Kalita has availed a loan of ₹ 5,00,000/- on 15.03.2022 from the Bandhan Bank of Rangia Branch by forging documents like Aadhaar Card, PAN Card and Income documents and the loan processed and transferred to the account of one Arabinda Deka, Himanshi Malakar and Moon Malakar and thereby committed cheating by personation, fraud, forgery and criminal breach of trust.

4. Mr. Haloi, learned counsel for the applicant submits that the applicant has received one notice under Section 41A Cr.P.C. on 28.12.2023 and pursuant to the said notice, he had appeared before the I.O. and the I.O. has recorded his statement and thereafter, he was released and that he has been cooperating with the investigating agency and that he is no way involved with the offence alleged in the FIR and therefore, it is contended to allow this 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 some materials in support of the allegation made in the FIR and therefore, Mr. Sarma submits that the petition may be dismissed at this stage.

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 applicant had appeared before the I.O. pursuant to the notice under Section 41A Cr.P.C. and his statement is also recorded and he has been cooperating with the investigating agency. Further, in view of the materials collected so far in the case diary and also having regards to the nature and gravity of the offence and the punishment prescribed for the same, custodial interrogation of the applicant seems to be not warranted here in this case and therefore, this Court is inclined to allow this petition. It is provided that in the event of arrest of the applicant, namely, Arabinda Deka, who has been apprehending arrest in connection with Rangia P.S. Case No.62/2023, under Section 120B/419/420/468 IPC, he shall be enlarged on pre-arrest bail on his executing a bond of ₹ 50,000/- with one surety of the like amount to the satisfaction of the arresting authority. The above privilege is, however, subject to the following conditions:-

- (i) The applicant shall make himself available for interrogation by the Investigating Officer as and when required;
- (ii) The applicant 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) The applicant shall not leave the jurisdiction of the learned S.D.J.M.(M), Rangia, without prior permission.

8. In terms of above, this anticipatory bail application stands disposed of.

Sd/- Robin Phukan
JUDGE

Comparing Assistant