

GAHC010034982024



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

Case No. : AB/408/2024

BHASKAR DEKA
S/O SRI HARIDHAN DEKA, RESIDENT OF MAHALIAPARA, PO BURHI
NAGAR, PS SIPAJHAR, DIST. DARRANG, ASSAM, 784147

VERSUS

THE STATE OF ASSAM
REP. BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. P CHETIA

Advocate for the Respondent : PP, ASSAM

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

ORDER

28.02.2024

Heard Mr. J. Borah, 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, Bhaskar Deka, who has been apprehending arrest in connection with Mangaldoi P.S. Case

No.30/2024 under Section 379/411/34 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 Faruk Ahmed on 10.02.2024. The essence of allegation made in the aforesaid FIR is that on 10.02.2024, 5(five) persons, namely, Nagen Deka, Tridip Kalita, Dibyajyoti Baruah, Bhaskar Deka and Naved Ali have stolen mount of Jio Tower (MAOI6017) and while Nagen Deka, Tridip Kalita, Dibyajyoti Baruah and Bhaskar Deka were selling the same at Baba Trader & Copper, then they were caught red-handed.

4. Mr. Borah, learned counsel for the applicant submits that the applicant was not present at the relevant time at the place of occurrence and that he is no way involved with the offence alleged in the FIR and he is ready to cooperate with the investigating agency and that the stolen articles have already been recovered and as such, custodial interrogation of the applicant may not be required in the interest of investigation and therefore, it is contended to allow this petition.

5. On the other hand, Mr. B. Sarma, learned Additional Public Prosecutor, Assam, referring to the materials collected so far in the case diary, submits that the applicant is involved with the offence alleged in the FIR 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 some materials are collected by the I.O. in support of the allegation made in the FIR. But, it appears that the stolen articles have already been recovered and seized and the co-accused have also been arrested and enlarged on bail. In that view of the matter, custodial interrogation of the applicant may not be required in the interest of investigation and therefore, this Court is inclined to allow this petition. It is provided that in the event of arrest of the applicant, namely, Bhaskar Deka, in connection with Mangaldoi P.S. Case No.30/2024 under Section 379/411/34 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 C.J.M., Mangaldoi, without prior permission.
8. In terms of above, this anticipatory bail application stands disposed of.
9. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant