

GAHC010065882024



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

Case No. : AB/817/2024

AJNUR ALI
S/O LATE TARMUJ ALI, P/R/O 4TH FLOOR, 401 AND 402, NEHARS
RESIDENCY, HATIGAON CHARIALI, P.S.-HATIGAON, GUWAHATI, DIST-
KAMRUP (M), ASSAM, PIN-781038

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR Z KAMAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

25.06.2024

Heard Mr. Z. Kamar, learned Senior counsel assisted by Mr. A. Sarif, learned counsel for the applicant and also heard Mr. P.S. Lahkar, 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, Ajnur Ali, who has been apprehending arrest in connection with Cyber P.S. Case No.12/2023 under Section 120B/419/420 IPC, read with Section 66C/66D of the I.T. Act and added Section 409/468/471 IPC, for grant of pre-arrest bail.

3. It is to be noted here that the above noted case has been registered on the basis of an FIR lodged by one Papu Gogoi, Circle Officer, Dispur Revenue Circle, on 02.11.2023. The essence of allegation made in the aforesaid FIR is that as per direction of the Deputy Commissioner, the informant had detected unauthorised access of CO login (gogoi1234) of Dispur Revenue Circle and he had submitted a detail report to the District Commissioner on 01.11.2023. Then, it has come to his notice that a mutation order was passed online in Dharitree portal on 05.10.2023 in Case No.MET/DIS/2022-23/96042/OMUT against a deed bearing Sl.No.6268, dated 31.12.1995, wherein no offline case record and also the record of issuing any notice or order so passed was found to be available in his office. Then upon inquiry, Lat Mandal reported that neither field verification nor any report was submitted in respect of the referred mutation case. Thereafter, the informant officially communicated to the DIO, NIC, Kamrup(M), requesting for login history details from from 01.10.2023 to 26.10.2023 and he found that an IP address 10.177.88.65 had record of login/logout history of 52 times from 04.10.2023 to 26.10.2023 and 2 times on 10.10.2023 in IP address 10.177.88.58 and the said IP addresses were not from the official list of the 33 operational IP addresses of his office and the aforesaid 2 IP addresses are unauthorised and illegal and therefore, the same required detail investigation and expert examination.

4. Mr. Kamar, learned Senior counsel for the applicant submits that the applicant was granted the privilege of interim pre-arrest bail by this Court, vide order dated 03.04.2024 and pursuant to the said order, the applicant had appeared before the I.O., but his statement has not been recorded by the I.O. Further, Mr. Kamar submits that the applicant had purchased a plot of land by following the due process of law and he is no way involved with the offence alleged in the FIR and he will cooperate with the investigating agency and therefore, it is contended to make the interim order dated

03.04.2024, absolute, in the same terms and conditions.

5. On the other hand, Mr. P.S. Lahkar, learned Additional Public Prosecutor, Assam, has produced the case diary before this Court and submits that the I.O. has examined some witnesses and also collected relevant documents and seized the same. Further, Mr. Lahkar submits that after passing of the interim order the applicant has not appeared before the I.O. and as such, his statement is not recorded by the I.O. in the case diary.

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. Lahkar, learned Additional P.P.

7. It appears from the case diary that the investigation has progressed significantly. The I.O. had examined witnesses and also seized relevant documents. In view of the progress of investigation and also in view of the submission of Mr. Kamar, learned Senior counsel for the applicant as well as the learned Additional P.P. and also the stage of investigation, custodial interrogation of the applicant seems to be not warranted here in this case and therefore, considering above and also considering the nature and gravity of the offence and the punishment prescribed for the same, this Court is inclined to make the interim order dated 03.04.2024, absolute, in the same terms and conditions. Case diary be returned.

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

Sd/- Robin Phukan
JUDGE

Comparing Assistant