

GAHC010065042024



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

Case No. : AB/841/2024

MAHITOSH NAMASUDRA
S/O SINDHUMONI NAMASUDRA, R/O VILL- BAGARGUL, P.O.-RAKESH
NAGAR, P.S.-KARIMGANJ, DIST-KARIMGANJ, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. S ROY

Advocate for the Respondent : PP, ASSAM

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

ORDER

19.04.2024

Heard Mr. M.H. Laskar, 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 Karimganj P.S. Case No.988/2023, under Section 120B/143/333/332/186/353/307/294/392 IPC, read with Section 13/14 of the

Assam Game and Betting Act, read with Section 53(1)(a) of the Assam Excise Act, this application under Section 438 Cr.P.C. is preferred by applicant, namely, Mahitosh Namasudra, 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 S.I. Dulu Boro of Karimganj Police, on 30.12.2023. The essence of allegation made in the aforesaid FIR is that acting on a tip off the informant and other police staff visited Bagargul Bazar under Kaliganj and found selling of illegal liquor in the shop of one Jay Hari Das and also found some persons involved in gambling in the said shop and seeing police party, the owner along with other people, playing game (Dice and Board), started running and managed to escape, however, they have apprehended two persons, namely, Amiya Paul and Rajesh Paul from the shop of Jay Hari Das and recovered some bottles of Indian made foreign liquor and seized the same in presence of witnesses and thereafter, while they conducted raid in another shop, then around 20/30 people assembled there unlawfully with criminal conspiracy and physically assaulted the informant and his staff, so as to deter them from discharging their lawful duties and rebuked them with abusive words.

4. Mr. Laskar, learned counsel for the applicant submits that though the name of the applicant finds mention in the FIR dated 30.12.2023, yet, he did not take part in the aforementioned offence, though he was present at the place of occurrence at the relevant point of time and that the injuries sustained by the victims are also of simple in nature and that the applicant is also suffering from some mental diseases and undergoing treatment. Mr. Laskar further submits that this Court vide order dated 04.03.2024 in AB No.474/2024 was pleased to extend the privilege of pre-arrest bail to one of the co-accused, namely, Pronojit Das and the present applicant is also stand in the same footing and that he is 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 applicant and that all the witnesses examined by the I.O. have implicated the present applicant and that as many as 6 police personnel sustained injuries in the said occurrence and as such this is not a fit case for granting the privilege of pre-arrest bail 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 in support of the allegation made in the FIR. It also appears that the I.O. has got the victims examined by doctor and collected the injury report, which is available in the case diary and it appears that as many as 5 police personnel have sustained injuries on their person in the aforesaid incident. Further, it appears that the investigation is going on.

8. In view of the materials collected so far in the case diary and also in view of the nature and gravity of the offence, this Court is of the opinion that this is not a fit case where the privilege of pre-arrest bail can be granted to the applicant. Accordingly, the anticipatory bail application stands dismissed.

9. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant