

GAHC010033302024



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

Case No. : AB/397/2024

MUSTAFA KAMAL
S/O ABDUL SALAM
R/O VILL- KATIMARI GRANT
P.S. HAIBORGASON
DIST. NAGAON, ASSAM
PIN-782002

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A SARMA

Advocate for the Respondent : PP, ASSAM

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

ORDER

04.03.2024

Heard Mr. A. Sarma, 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 Kachua P.S. Case No.149/2023, under Section 120B/420 IPC, this application under Section 438 Cr.P.C. is preferred by applicant, namely, Mustafa Kamal, 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 Abdul Hasim on 08.12.2023. The essence of allegation made in the aforesaid FIR is that on 12.10.2023 he met with an accident, wherein he dashed one Samu Debnath of Alitengani village with his Alto vehicle, bearing Registration No.AS-05R-8820. As a result of which, said Samu Debnath suffered demise and in connection with the said accident one case has been registered and thereafter, to settle the same, one Muzakkir Ahmed and Mustafa Kamal has taken a sum of ₹ 2,50,000/- from him, so as to bribe the Superintendent of Police, Nagaon and the Officer-in-Charge of concerned police station and thereafter, they failed to settle the case and thereby cheated him.

4. Mr. Sarma, learned counsel for the applicant submits that this is the 2nd anticipatory bail application. Referring to page-24 of this petition, Mr. Sarma submits that the applicant is suffering from hypertension and diabetes mellitus, anxiety neuro and he had been advised to consult neurologist and endocrinologist. Mr. Sarmar further submits that there is no eye witness to the occurrence also and the applicant 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 opposed the petition on the ground that earlier AB No.30/2024 was dismissed by this Court after perusing the case diary and that the ground so assigned for filing this 2nd anticipatory bail application is not at all sustainable in view of the fact that none of the diseases mentioned in the aforesaid page-24 are serious in nature requiring urgent medical attention.

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. It is not in dispute that the earlier anticipatory bail application, being AB No.30/2024 was dismissed by this Court after perusing the case diary on 12.01.2024 and no change of circumstance could be shown by the applicant to reconsider the same. Though one medical certificate is being enclosed with the petition, yet, the diseases mentioned therein appears to be not so serious requiring urgent medical attention, as submitted by the learned Additional P.P. The case diary indicates that the investigation is going on and the allegations levelled in the FIR against the present applicant are serious in nature and therefore, this Court is of the view that this is not a fit case where the privilege of pre-arrest bail can be granted to the applicant and custodial interrogation of the applicant seems to be indispensable to unearth the angle of conspiracy and the persons involved therein and therefore, this Court is inclined to dismiss the same.

8. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant