

GAHC010050282024



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

Case No. : AB/649/2024

PUTUL DAS
S/O RATNESWAR DAS, BORTICHUK, RAHMORIA, DIST-DIBRUGARH,
ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR A NATH

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

08.04.2024

Heard Mr. A. Nath, learned counsel for the applicant and also heard Mr. R.J. Baruah, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. Apprehending arrest in connection with BI(EO) P.S. Case No.21/2023, under Section 120B/379/411/119 IPC, read with Section 35/41 of the Assam Forest Regulation (Amendment) Act, 1995, this application under Section 438 Cr.P.C. is preferred by three applicant, namely, Putul Das, 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 Sanjib Kumar Goswami, Inspector of Police, BIEO, Assam, on 25.08.2023. The essence of allegation made in the aforesaid FIR is that on the basis of news item published in Axomia Pratidin on 04.03.2023, a preliminary enquiry was conducted by Shri Amrit Ch. Kalita, Dy.S.P. CM's SVC, Assam and a report, vide PE No.05/2023, was submitted, which indicates that several persons, namely, Dandinath Missong, Dimbeswar Mipun, Memsura Missong, Mona Missong and Chandra Missong of village Dadhiya, under Chabua P.S. are involved in smuggling timbers illegally from Dibru-Saikhowa National Park.

The report also indicates that several saw mills, namely, Khan Saw Mill, Santosh Kumar Dhelia Saw Mill, Raj Saw Mill, Rupai Saw Mill, Asu Das, Mukti Singh, Ramavater Saw Mill, Das & Das Saw Mill, which are set up on the river bank of Brahmaputra, near Dibrugarh Town, collects the logs from the river and transported it after sawing.

The report further indicates that one Pradip Medhi, Writuraj Buragohain, Raju Medhi, Kalyan Sonowal, Mohan Sonowal, Hemanta Moran, Gunin Gogoi, Dharani Gogoi, Sanjoy Sharma and Wajid Khan of Tinsukia district have been running timber business covering Assam-Arunachal border area. Further, the report indicates that local Forest Officials of Sadiya, Doom Dooma, Talap, Tinsukia, Dibrugarh, Guijan Range and Saikhowa Wildlife Range and Police Officials are aware about such illegal trade.

4. Mr. Nath, learned counsel for the applicant submits that this is the 3rd pre-arrest bail application preferred by the applicant. And the ground for filing this application is that after rejection of the 1st and 2nd pre-arrest bail applications, the I.O. got sufficient time for the investigation and thereafter, some of the persons have already been granted the privilege of pre-arrest bail and also some of the accused, who have already been arrested here in this case, have also been granted bail and that the applicant has received a notice under Section 41A Cr.P.C. and that he is ready to comply with the aforesaid notice, but he has apprehension that he may be arrested in the event of his appearance before the I.O. and that the applicant is not named in the FIR and therefore, it is contended to allow this petition.

5. On the other hand, Mr. R.J. Baruah, learned Additional Public Prosecutor, Assam, submits that after rejection of the 1st and 2nd anticipatory bail applications, no change of circumstance has been shown to have been taken place in favour of the applicant and the investigation is going on and it is pending for arrest of the applicant and other co-accused and that sufficient materials are there in the case diary to show his complicity with the offences alleged in the FIR and therefore, it is contended to dismiss 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. Baruah, learned Additional P.P.

7. It appears that the 1st pre-arrest bail application, being AB No.3082/2023 was dismissed by this Court vide order dated 06.10.2023 and thereafter, the 2nd pre-arrest bail application, being AB No.4288/2023 was dismissed by this Court vide order dated 23.01.2024, after perusing the case diary. The case diary indicates that after rejection of the aforesaid two pre-arrest bail applications, some of the accused were arrested and thereafter, they were granted bail and some of them were also granted the privilege of pre-arrest bail. But, the applicant has failed to show any change of circumstance in his favour except what has been discussed above and to the considered opinion of this Court, those circumstances cannot be treated as a change of circumstance in favour of the applicant.

8. In view of above and also in view of the materials collected so far in the case diary and further considering the submission of the learned Advocates of both sides, 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. Accordingly, this 3rd pre-arrest bail application stands dismissed.

9. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant