

GAHC010045152024



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

Case No. : AB/565/2024

TOLESWAR GOGOI
S/O- DULLOV GOGOI, R/O- VILLAGE- GHATAPARA GAON, P.O.
GHATAPARA, P.S. DHAKUAKHANA, DISTRICT- LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP ASSAM

Advocate for the Petitioner : MR A KHANIKAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

19.06.2024

Heard Mr. R.L. Chutia, learned counsel for the applicant and also heard Mr. P.S. Lahkar, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. Apprehending arrest in connection with Dhakuakhana P.S. Case No.15/2024 under Section 120B/384/392/387/406/506 IPC, read with Section 7C(2) of the Assam Money

Lenders (Amendment) Act, 1968, this application under Section 438 Cr.P.C. is preferred by applicant, namely, Toleswar Gogoi, 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 Bhimbikhan Milli, on 19.02.2024 against Rajib Konch and Tuleswar Dutta. The essence of allegation made in the aforesaid FIR is that he had taken a loan of ₹ 1,50,000/- from one Rajib Konch on 12.12.2013 at the rate of 6.67% interest per month and he used to pay interest upon the said principal amount. But, he could not continue to make payment of the interest for few months, for which Rajib Konch and his manager Tuleswar Dutta had forcibly taken away his Punjab National Bank ATM card and passbook along with the cheque book and kept the same in their custody and they also used to withdraw money through the ATM card from his account and they failed to return the same despite his request.

4. Mr. Chutia, learned counsel for the applicant submits that the applicant was granted the privilege of interim pre-arrest bail, vide order dated 05.03.2024 and pursuant to the said order, the applicant had appeared before the I.O. and cooperating with the investigating agency and his statement is also recorded and that he is ready to cooperate with the investigating agency and therefore, a contention is being made to make the interim order dated 05.03.2024, 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 materials, collected so far in the case diary during the investigation of the case are insufficient to disclose any legally prosecutable culpability of the applicant.

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. The case diary indicates that the materials collected so far is quite insufficient to show the culpability of the applicant with the offence alleged in the FIR. In that view of

the matter, his custodial interrogation 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 05.03.2024, 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