

GAHC010106432023



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

Case No. : AB/1760/2023

SHARIFUL ISLAM
S/O SHRI MASHRAB ALI
R/O BAJIAGAON, P.O. SAMAGURI
P.S. SAMAGURI
DIST. NAGAON, ASSAM
PIN-782140.

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. P D NAIR

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MRS. JUSTICE MALASRI NANDI
ORDER

31.05.2023

Heard Mr P D Nair, learned counsel appearing for the petitioner and Mr K K Das, learned Additional Public Prosecutor for the State of Assam.

2. By this application filed under Section 438 CrPC, the petitioner, Shri Shariful Islam, has sought for pre-arrest bail, who is apprehending his arrest in connection with

Kaliabor PS Case No. 37 of 2023, under Sections 454/380 IPC

3. It is submitted by the learned counsel for the petitioner that while the arrested accused Sri Tiken Nayak @ Tikla was residing in the village of the petitioner, due to his involvement in many offences, he was drove out of the village by the villagers, including the present petitioner. And as such, he has taken the name of the petitioner that the stolen articles are kept in the house of the petitioner, but, however the Police could not recover anything from the petitioner. Therefore, it is prayed that the benefit of pre-arrest bail may be extended to the petitioner.

4. On the other hand learned Additional Public Prosecutor has raised objection against the bail prayer of the petitioner, as the arrested accused has taken his name for keeping the stolen articles.

6. I have heard the submissions made by the learned counsel for both the parties. I have also perused the Case Diary as well as the documents annexed with the record.

7. From the CCTV footage, it appears that the person who was arrested was the main perpetrator of the crime. Accordingly, in view of the facts and circumstances of the case and having regard to the submissions made by the learned counsel for both the parties, this Court is of the opinion that the privilege of pre-arrest bail can be extended to the petitioner, namely, Shri Shariful Islam. Accordingly, it is provided that in the event of arrest in connection with Kaliabor PS Case No. 37 of 2023, the petitioner, namely, Shri Shariful Islam, shall be released on pre-arrest bail on executing a bond of Rs. 10,000/- (Rupees Ten Thousand)only, with one surety of like amount to the satisfaction of the arresting authority. The above privilege is, however, subject to the following conditions:

(i) the petitioner is directed to appear before the Investigating Officer within a period of 10 (ten) days from today.

(ii) that the petitioner shall make himself available for interrogation by the Investigating Officer as and when required;

(iii) that the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer.

(iv) the petitioner shall not leave the jurisdiction of the Court, without prior permission of the Court. In case of violation of any of the above conditions by the petitioner, the learned Public Prosecutor is at liberty to move before this Court for cancellation of bail.

8. With the aforesaid observations and directions this Anticipatory Bail Application stands disposed of.

9. Send back the Case Diary.

JUDGE

Comparing Assistant