

GAHC010114642022



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

Case No. : AB/1603/2022

BIJU KATHAR

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, GOVT. OF ASSAM.

Advocate for the Petitioner : P TERANG

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA**

ORDER

21.06.2022

Heard Ms. R. Baruah, learned counsel representing the petitioner as well as Mr. P. Borthakur, learned Additional Public Prosecutor, Assam.

This is an application under Section 438 CrPC praying for pre-arrest bail by the petitioner Sri Biju Kathar in connection with Hatigaon P.S. Case No. 1031/2022 under Sections 379 of the IPC.

On 03.12.2021, two motorcycles were stolen from the house of the informant. Subsequently, Police recovered the motorcycle and discovered that the present petitioner is the mastermind behind the said theft.

It has been submitted on behalf of the petitioner that he has been unnecessarily harassed by Police only because of the personal interest of the Investigating Officer. The petitioner submits that the Investigating Officer of this case wanted to purchase land in the tribal belt by evicting the petitioner from his own property.

The petitioner has submitted copy of an application which many people jointly filed before the Circle Officer, Sonapur Revenue Circle alleging his interference in the dispute where the Investigating Officer Mrityunjoy Saikia of Hatigaon P.S. is involved.

The learned counsel Ms. R. Baruah submits that the said Investigating Officer of this case is unnecessarily and illegally using his official powers to harass an innocent citizen.

I have considered the submissions made by the learned counsels for both sides.

The allegation brought by the petitioner is a serious one. Under the given circumstances of this case, I have decided to agree with Ms. Baruah.

The Commissioner of Police, Guwahati is directed to change the Investigating Officer of this case. It is also directed that the petitioner deserves to be given an interim protection. Accordingly, it is hereby directed that in the event of arrest in connection with Hatigaon P.S. Case No. 1031/2022 under Sections 379 of the IPC, the petitioner, namely, Sri Biju Kathar, shall be released on bail of Rs.25,000/- with one surety of like amount to the satisfaction of the arresting authority. The petitioner shall not appear before the present Investigating Officer Mrityunjoy Saikia. Whenever a new Investigating Officer is appointed then only the petitioner shall appear before him. The new investigating Officer shall have the liberty to approach this Court for cancellation of bail of the petitioner in appropriate circumstances.

Anticipatory Bail application stands disposed of.

Return the Case Diary.

A copy of this order be served on the Commissioner of Police, Guwahati for his information and necessary action.

JUDGE

Comparing Assistant