GAHC040009152025

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

Case No. : AB/81/2025

Anup Baruah
Son of Shri Dulal Ch Baruah, resident of H.No.57, ABG Residency, Mother Teresa Road, P Geeta Nagar, Kamrup (M) District, Assam 781021

VERSUS

The State of AP
represented by the PP of AP

Advocate for the Petitioner : 1 R K Nath, K Singha,Sankar Dev Roy,B Sharma,D K Das

Advocate for the Respondent : P P of AP,

BEFORE
HONOURABLE MRS. JUSTICE SHAMIMA JAHAN

ORDER

Date : 01-07-2025

Heard Mr. R. K. Nath, learned counsel for the accused applicant. Also heard Ms. T. Jini, learned Additional Public Prosecutor for the State.

2. This is an application, filed under Section 482 of the BNSS, 2023, praying for grant of pre-arrest bail to the accused applicant, namely, *Anup Baruah*, in connection with Nirjuli P.S. Case No. 95/2019, registered under Sections 406/408/419/420/427 of the IPC.

3. The prosecution case as is revealed from the FIR, dated 06.12.2019, is that one

Shri Khoda Raja, the Dealer of the Itafort Ford Dealer, Model village, Naharlagun, filed an FIR against the accused applicant, alleging *inter alia* that the applicant, who was working as a Sales Executive in Itafort Ford Dealer had committed breach of trust, fraud and cheating by forging and using the dealers money receipt without the dealer's consent and misappropriated money of the company.

4. It was further stated in the said FIR that on 02.12.2019, at around 9.00 am, one of the staff furnished the complainant a copy with a money receipt of the dealer, amounting to Rs 50,000/- (Rupees Fifty Thousand) and Rs 17,00,000/- (Rupees Seventeen Lakhs), respectively. Upon receipt of the same, the dealer enquired and found that the applicant had issued the company's money receipt and that the company is unaware as to how the money receipt went to his hands when the same should be with the accountant. It is also stated that the applicant had taken Rs 4,00,000 (Rupees Four Lakhs) from a customer to obtain a car on behalf of the said customer, but after getting the money, he fled. This FIR was registered on 06.12.2019 by the Police. The Police carried out the investigation and recorded the statement of the witnesses in the month of December, 2019, itself.

5. Thereafter, on 07.01.2020, the Investigating Officer of the case had prayed before the Court of the learned Chief Judicial Magistrate, Capital Complex, Yupia, for issuance of NBWA against the accused applicant and the said Court, directed for issuance of the NBWA against the applicant vide order, dated 07.01.2020. Thereafter, the Police made many endeavours to execute the NBWA issued against the accused applicant but due to the COVID-19 pandemic that was enveloping the world, the investigation could not proceed much and in the meantime, the Investigating Officer was also changed. Thereafter, on 27.01.2025, a prayer was made before the CJM, Yupia, for declaring the applicant as a proclaimed offender.

6. Mr. Nath, the learned counsel appearing for the accused applicant, submits that he was totally unaware of the FIR as well as the order, dated 07.01.2020, by which

the NBWA was issued. He further states that he came to know about the same, only when the Police went to his house at Guwahati on 26.05.2025. And that, immediately on 27.05.2025, he came to the State of Arunachal Pradesh and collected the certified copy of both the FIR as well as the order dated 07.01.2020.

7. He further stated that he was simply serving as a Sales Executive in Itafort Company in the year, 2019 and he had no connection with the accounts department which deals with the sale of the vehicles. As such, he has no role in taking the money as alleged in the FIR.

8. Ms. T. Jini, learned Additional Public Prosecutor, however, stated that the applicant was working as a Sales Executive in the said company even after the FIR was lodged and there was no occasion for him, not to know about the FIR, in question. She stated that the applicant absconded himself all these years, for which, the NBWA was issued and steps were on to declare him as a proclaimed offender. As such, she prays that no bail should be granted to the accused applicant.

9. Ms. T. Jini, learned Additional Public Prosecutor, places a judgement of the Hon'ble Apex Court passed in the case of **Srikant Upadhyay vs. The State of Bihar**, reported in **AIR 2024 SC 1600**, wherein, it has been observed that in cases where warrant of arrest or proclamation is issued, the Court should not normally grant pre-arrest bail except in extreme and exceptional cases in the interest of justice.

10. I have heard the parties and have gone through the materials available on record.

11. It is noticed that the applicant has obtained the copy of the FIR on 27.05.2025 and also, the copy of the order, dated 07.01.2020, by which NBWA was issued against the applicant by the Court of the learned Chief Judicial Magistrate, Capital Complex, Yupia. The learned counsel for the applicant has also stated that he was working as a consultant in the company, till December 2020, i.e. he worked for one year after the FIR was lodged, for which he has placed few emails in connection with the same.

However, he stated that he did not know about the FIR, which was filed one year back. Further, it is noticed that the applicant has a permanent residence at Gitanagar, Guwahati, where he resides with his family and the Police have also visited his residence.

12. In view of the above, this Court enlarges the accused applicant, namely, *Shri Anup Borah*, in connection with Nirjuli P.S. Case No. 95/2019, registered under Sections 406/408/419/420/427 of the IPC, on pre-arrest bail on furnishing a bail bond of Rs. 30,000/- (Thiry Thousand), with 2 (two) sureties of like amount to the satisfaction of the Chief Judicial Magistrate, Capital Complex, Yupia, subject to the following conditions:

(i). That the applicant shall appear before the Court of the Chief Judicial Magistrate, Yupia, on the next date, which is fixed on 21.07.2025, positively without fail and if he does not appear, necessary steps may be taken by the authority concerned;

(ii). That the applicant shall co-operate in the investigation of the case and appear before the Investigating Officer as and when called for and give his statement to the said IO;

(iii). He will not leave the place of his residence i.e. at Guwahati, without the prior permission of the learned Chief Judicial Magistrate, Capital Complex, Yupia; and

(iv). That the applicant 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 either to the Police Officer or to the Court.

13. The anticipatory bail application stands disposed of.

JUDGE

Comparing Assistant