

GAHC010065572026



2026:GAU-AS:4927

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

Case No. : AB/685/2026

SHONAULLAH
S/O SHADULLAH HOQUE, R/O HATISHOLA PAM , P.S. CHHAYGAON, DIST.
KAMRUP, ASSAM.

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PP, ASSAM.

Advocate for the Petitioner : MR. A PARAMANIK, P. KALITA

Advocate for the Respondent : PP, ASSAM,

BEFORE
HON'BLE MR. JUSTICE SANJEEV KUMAR SHARMA
ORDER

02.04.2026

Heard Mr. A. Paramanik, learned counsel for the petitioner. Also heard Mr. M. P Goswami, learned Addl. PP for the State of Assam.

2. This is a petition under Section 482 of the BNSS, 2023 praying for grant of pre-arrest bail to the accused/petitioner namely **Shonaullah**, who is apprehending arrest in connection with South West (Delhi) Cyber P.S. Case No. 105/2026 u/s 308/318(4)/319/340 of BNS, 2023.

3. An F.I.R was lodged before the South West (Delhi) SHO Cyber Police Station wherein he inter-alia alleged that, the informant have been a victim of online financial fraud of Rs. 2217686/-. This financial fraud had occurred within the Delhi jurisdiction and someone has deceived and cheated the informant pretending to be someone else and made to deliver the property (money) of Rs. 2217686/-. They also use fake document and pretend it was real and hence the case.

4. The petitioner has received a notice dated 09.03.2026, from the I.O and apprehends that he may be arrested immediately upon his arrival in South West Delhi in response to the aforesaid notice. Hence, this case for transit bail.

5. On perusal of the notice, the petitioner claimed that he is an innocent person, and in no way involved into the alleged case. In fact, the petitioner is a cultivator and one Rafikul Islam, resident of Mahatoli, PS. Boko, in the

district of Kamrup, Assam approached the petitioner to open a bank account for obtaining KYC loan and as such the petitioner furnished the relevant documents to said Rafikuk Islam and finally beyond the knowledge of the petitioner the said Rafikuk Islam used those documents and opened the alleged Current Account beyond the knowledge of the petitioner and petitioner is totally unknown about the alleged transactions.

6. The learned counsel for the petitioner stated that he was kept in dark about the alleged transaction made by the said Rafikul Islam, resident of Mahatoli, P.S. Boko, in the district of kamrup, Assam and he only come to know that there have been gone some suspicious transactions took place in the account of the accused/petitioner. After receiving the notice u/s 35 (3) of the BNS, 2023 the petitioner visited the Bank to avail Bank statement against his account however, on being sought the same, the Bank official refused to provide the bank statement as the Police personnel of South west (Delhi) cyber police station already freezed the same as he was suggested to go through the mail Id linked with the Bank account of the accused/petitioner.

7. Looking at the contents of the FIR as reflected in the instant application, it cannot be said that the petitioner cannot have a reasonable apprehension of arrest, upon his arrival in South West Delhi or even earlier and therefore, there is a reasonable and immediate threat to his personal liberty in the jurisdiction where the FIR was registered.

8. The case of ***Priya Indoria Vs. State of Karnataka*** and Ors. reported in **(2024) 4 SCC 749**, the Hon'ble Supreme Court has laid down the conditions for grant of transit bail, which is extracted herein below:-

93.1. Prior to passing an order of limited anticipatory bail, the investigating officer and public prosecutor who are seized of the FIR shall be issued notice on the first date of the hearing, though the Court in an appropriate case would have the discretion to grant interim anticipatory bail.

93.2. The order of grant of limited anticipatory bail must record reasons as to why the applicant apprehends an inter-state arrest and the impact of such grant of limited anticipatory bail or interim protection, as the case may be, on the status of the investigation.

93.3 The jurisdiction in which the cognizance of the offence has been taken does not exclude the said offence from the scope of anticipatory bail by way of a State Amendment to Section 438 of CrPC.

93.4 The applicant for anticipatory bail must satisfy the Court regarding his inability to seek anticipatory bail from the Court which has the territorial jurisdiction to take cognizance of the offence. The grounds raised by the applicant may be -

a) a reasonable and immediate threat to life, personal liberty and bodily harm in the jurisdiction where the FIR is registered;

b). the apprehension of violation of right to liberty or impediments owing to arbitrariness;

c. the medical status/ disability of the person seeking extra-territorial limited anticipatory bail.

94. It would be impossible to fully account for all exigent circumstances in which an order of extra territorial anticipatory bail may be imminently essential to safeguard the fundamental rights of the applicant. We reiterate that such power to grant extra-territorial anticipatory bail should be exercised in exceptional and compelling circumstances only which means where, denying transit anticipatory bail or interim protection to enable the applicant to make an application under Section 438 of CrPC before a Court of competent jurisdiction would cause irremediable and irreversible prejudice to the applicant. The Court, while considering such an application for extra-territorial anticipatory bail, in case it deems fit may grant interim protection instead for a fixed period and direct the applicant to make an application before a Court of competent jurisdiction.

9. Although no notice was issued to the I/O and the Public Prosecutor, who are seized of the FIR on the first date of the hearing, in the opinion of this Court, resorting to the same at this final stage of hearing is likely to cause further delay in the investigation, as the said officials are in distant South West Delhi. Therefore, I find the present case to be an appropriate case to excise the discretion to grant interim protection for a fixed period and to direct the petitioner to make an application before the Court of competent jurisdiction, as otherwise, there is a scope for causing irremediable and irreversible prejudice to the applicant.

10. Accordingly, it is directed that in the event of the arrest of the petitioner within 30 days from today in connection with the aforesaid case, he shall be released on transit bail on executing of personal bond of

Rs.50,000/- with two sureties of the like amount to the satisfaction of the arresting authority.

11. It is made clear that the present interim protection in the form of transit bail has been granted to the petitioner only in order to enable him to approach the Court of competent jurisdiction for anticipatory bail on merits.

12. Anticipatory bail application stands disposed of.

JUDGE

Comparing Assistant