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

Case No. : AB/1442/2026

SAMEER PATTNAIK
S/O- LATE BIPINI BHARI PATTNAIK, RESIDENT OF AT FLAT NO A-515
SUBHADRA APARTMENT, PATIA, PO KIIT, PS INFOCITY, BHUBANESWAR,
DISTRICT KHORDHA, ODISHA, PIN 751024

VERSUS

THE STATE OF ASSAM
TO BE REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR N A MAZARBHUIYA, MR N Z CHOUDHURY,A S CHOUDHURY

Advocate for the Respondent : PP, ASSAM, MR. A E HUSSAIN(INFORMANT),MR. S HAQUE(INFORMANT),MR S M ABDULLAH P(INFORMANT)

B E F O R E

HON'BLE MR. JUSTICE SANJEEV KUMAR SHARMA

ORDER

30.07.2026

Heard Mr. N A Mazarbhuiya, learned counsel for the petitioner. Also heard Mr. K K Parasar, learned Addl. Public Prosecutor for the State of Assam, as well as Mr. Srivastava learned counsel appearing for the informant.

2. This is an application under Section 482 of the BNSS, 2023 praying for grant of anticipatory bail/pre-arrest bail to the petitioner, namely, Sameer Pattnaik, in connection with Bihubor P.S Case No. 03/2025, registered under Sections 109/61(2)/296/314/318(4)/351/3(5)/336(3)/338/240(2)/316(2)/308(2) of the BNSS, 2023.

3. On 12.07.2025, the complainant/informant Dusmanta Kumar Mudali, lodged an ejahar at Bihubor Police Station against the petitioner alleging that while the complainant/informant was in jail/custody in connection with a different case, the petitioner along with other business partners of the informant had misappropriated money from his company-M/S Global Trading Co., which deals in coal mining and coal trading business at Nagaland. The ejahar was lodged against the petitioner along with other co-accused on 12.07.2025 at Bihubor Police Station, Sivasagar. Consequently, it was recived and registered vide Bihubor P.S Case No. 03/2025 under Section 109/ 61(2)/ 296/ 314/ 318(4)/ 351/ 3(5)/ 336(3)/ 338/340(2)/316(2)/308(2) of the BNS, 2023.

4. It is stated that the allegations leveled against him are completely false, fabricated, and baseless. The complainant, Dusmanta Muduli @ Dusmanta

Kumar Muduli, and his wife, Sasmita Muduli, had taken a sum of Rs. 2,32,76,318.00 (Rupees Two Crores Thirty-Two Lakhs Seventy-Six Thousand Three Hundred and Eighteen only) in advance towards the sale of a landed property along with a building, and that the informant, in order to evade his liability, has falsely instituted the present case. In fact, the present petitioner had already lodged a criminal case against the informant, Dusmanta Kumar Muduli, Sasmita Muduli, and others, for inducing the delivery of property and forgery of valuable security before Infocity P.S., Bhubaneswar UPD, Odisha, vide P.S. Case No. 504/2025. The informant had also issued a cheque in favour of the present petitioner towards part payment of the aforesaid amount; however, the same was dishonoured, for which the present petitioner had instituted an I.C.C. Case, being I.C.C. Case No. 10300/2025, before the learned J.M.F.C., COG-II, Bhubaneswar, under Section 138 of the N.I. Act. Upon finding a prima facie case against the informant, the learned J.M.F.C., COG-II, Bhubaneswar, took cognizance of the offence under Section 138 of the N.I. Act and issued process against the informant.

5. It is further submitted that the informant herein is a history-sheeter who has a long criminal record of cheating, forgery, impersonation, etc., and that a number of criminal cases are pending against him, the particulars of which have been mentioned in the instant application. It is also submitted that the present case is nothing but a counterblast to the complaints lodged by the petitioner against the informant, as aforesaid. Moreover, it is submitted that the co-accused in the present case, namely, Diganta Chetia and Sabitri Choudhury, have been granted pre-arrest bail by this Court vide order dated 14.11.2025 passed in AB No. 2691/2025 and vide order dated 17.06.2026 passed in AB No. 1076/2026, respectively, and therefore, the petitioner is entitled to similar relief on the principle of parity.

6. Learned Addl. Public Prosecutor, with reference to the case diary, has submitted that there is sufficient incriminating material against the petitioner, which is of such a nature that custodial interrogation is imperative. The learned Addl. Public Prosecutor has also referred to the case diary, wherein the Investigating Officer has sought the custodial interrogation of the petitioner on the ground that he has misappropriated substantial amounts of money from the informant by way of fraudulent transactions and has been evading arrest for a considerable period, besides failing to respond to the notice issued under Section 35(3) of the BNSS, 2023.

7. Learned counsel for the informant has submitted that the petitioner has sought to present the informant as a history-sheeter, but has very conveniently concealed his own criminal antecedents, the list of which is quite extensive, involving more than eight cases relating to cheating, forgery, etc., against him. It is submitted that suppression of criminal antecedents is a ground on which the pre-arrest bail application of the petitioner is liable to be rejected peremptorily. The details of the said criminal cases have been mentioned in the intervention application filed by the informant, and learned counsel has taken the Court through the said list of cases. It is further submitted that the petitioner, having failed to make even a whisper about his aforesaid criminal antecedents, has subsequently filed an additional affidavit bringing the same on record, however, without any explanation as to why the said antecedents were not disclosed in the bail application itself. It is a further submission that even while filing the additional affidavit, the petitioner has suppressed another case pending against him, documents relating to which have been furnished by learned counsel for the informant. Learned counsel has referred to the following decisions of the Hon'ble Apex Court:

1) Zeba Khan vs. State of U.P. & Ors., 2026 Insurance Company 144, decided on 03.04.2025.

2) Munnesh vs. State of Uttar Pradesh, in SLP (Crl.) 1400/2025.

8. In *Zeba Khan (supra),* the Hon'ble Apex Court has held as follows:

> "*48. Thus, this Court is of the view that every petitioner or applicant seeking bail, at any stage of proceedings, is under an obligation to disclose all material particulars, including criminal antecedents and the existence of any coercive processes such as issuance of non-bailable warrants, declaration as a proclaimed offender, or similar proceedings, duly supported by an affidavit, so as to promote uniformity, transparency and integrity in bail adjudication."*

9. In *Munnesh (supra)*, the Hon'ble Court has, *inter alia*, observed that, in the said case, the criminal history of the petitioner was brought on record by the counter-affidavit filed by the respondent, and that there was no disclosure in the Special Leave Petition regarding the petitioner's criminal antecedents. The Hon'ble Court thereafter held that, since the petitioner had suppressed material facts regarding his involvement in criminal cases, he was not entitled to the discretionary relief of bail.

10. In reply, learned counsel for the petitioner has submitted that, since the present bail application is pending, the petitioner is fully entitled to bring on record additional facts, including his criminal antecedents, by filing an additional affidavit, which has already been done, and therefore, the petitioner cannot be accused of having suppressed any material facts. As far as responding to the notices under Section 35(3) of the BNSS is concerned, since it is the apprehension of the petitioner that he would be arrested upon his appearance before the police in response to such notices, the only option before the petitioner was to approach this Court by way of an application for pre-arrest bail, and accordingly, the petitioner has preferred the instant application. The criminal case allegedly not mentioned in the additional affidavit has been charge-sheeted, wherein the name of the petitioner has been dropped and hence, there is no reason to mention the same. It is the further submission of the learned counsel for the petitioner that, since this Court, while disposing of the pre-arrest bail application of a co-accused, had occasion to notice that the Circle Inspector of Police had recommended the filing of the charge-sheet upon completion of investigation, there is no necessity to take the present petitioner into custody.

11. A perusal of the record would reveal that the instant pre-arrest bail application was filed on 23.06.2026, and on the same date, the case diary was called for and the matter was directed to be listed on 27.07.2026. Subsequently, when the matter came up on 27.07.2026, learned counsel for the informant appeared and made his submissions. As per the record, the additional affidavit was filed by the petitioner on 29.07.2026, though it is stated to have been sworn before the Notary Public at Bhubaneswar on 22.07.2026.

12. The fact that a large number of criminal cases are pending against the petitioner could hardly have been unknown to him, and there is no explanation as to why the same were not mentioned in the instant pre-arrest bail application preferred by the petitioner. It appears that, had this Court been persuaded to pass any order of interim protection on the first day of listing, i.e., on 26.06.2026, such order would have been passed in ignorance of the criminal antecedents of the petitioner. Moreover, as submitted by learned counsel for the informant, the petitioner had preferred an application for pre-arrest bail before the learned Sessions Judge, Sivsagar, which ultimately came to be dismissed by order dated 16.10.2025, but even in that application the criminal antecedent of the petitioner was not disclosed.

13. From the aforesaid conduct of the petitioner, it appears that there has been suppression of material facts relating to his criminal antecedents, and therefore, in view of the aforesaid decisions of the Hon'ble Apex Court referred to hereinabove, the petitioner is not entitled to the privilege of pre-arrest bail. Furthermore, having perused the case diary and the reasons cited by the Investigating Officer, I am of the view that although the Circle Inspector of Police had recommended the filing of the charge-sheet, in view of the material available in the case diary, there still appears to be scope for further investigation, for which the custodial interrogation of the petitioner may be necessary, as stated by the Investigating Officer.

14. Learned counsel for the petitioner has referred to the decision of the Hon'ble Apex Court in *Prabhakar Tewari v. State of Uttar Pradesh & Anr., (2020) 11 SCC 648*, to support his contention that even if the petitioner has criminal antecedents, the same would not disentitle him from being granted pre-arrest bail. In the said decision, the Apex Court declined to interfere with the order of the High Court granting bail to the petitioner therein, as the High Court had exercised its discretion in granting bail to the accused upon considering the relevant materials, and held that the order did not suffer from any non-application of mind. Although there were several criminal cases pending against the said accused, the Apex Court observed that all those factors had been taken into consideration by the High Court while granting bail.

15. There is no dispute regarding the aforesaid proposition that criminal antecedents, by themselves, are not sufficient to disentitle a petitioner or an accused from the relief of pre-arrest or regular bail. However, the present case is one where such criminal antecedents have been suppressed, unlike in the case referred to by learned counsel for the petitioner, and therefore, the same has no application to the issue at hand in the present case.

16. In view of the above, the prayer for pre-arrest bail stands rejected, and the bail application stands dismissed.

17. Send back the CD.

JUDGE

Comparing Assistant