

GAHC040006112023



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

Case No. : AB 24/2023

1:Pinak Pani Roy
S/o Lt. Panna Kanti Roy,
R/o House No. 40, Basistha Nagar Road, Natun Bazar, PS Basistha, Guwahati,
781029, Kamrup (M), Assam.

VERSUS

1:THE STATE OF AP
Represented by PP, AP.

Advocate for the Petitioner : Sunil Mow

Advocate for the Respondent : P P of AP

BEFORE
HONBLE MR. JUSTICE NANI TAGIA

ORDER

Date : 22-05-2023

Heard Mr. A. Bora, learned Senior counsel for the applicant. Also heard Mr. T. Ete, learned Additional Public Prosecutor for the State of Arunachal Pradesh.

2. This is an anticipatory bail application under Section 438 of the Code of Criminal Procedure, 1973, praying for grant of pre-arrest bail to the accused

applicant, namely, *Shri Pinak Pani Roy*, in connection with Itanagar Police Station Case No. 449/2021, registered under Sections 406/34 of the Indian Penal Code.

3. When this matter was taken up for consideration on 16.05.2023, while calling for the Case Diary, this Court had passed the following order:

“...Heard Mr. M. K. Das, learned counsel for the accused applicant. Also heard Mr. Token Ete, learned Addl. P.P., appearing on behalf of the applicant-State of Arunachal Pradesh.

This is an anticipatory bail application under Section 438 of the Code of Criminal Procedure, 1973, praying for grant of pre-arrest bail to the accused applicant in connection with Itanagar Police Station Case No. 449/2021 registered u/ss. 406/34 of the Indian Penal Code.

The aforesaid Itanagar Police Station Case No. 449/2021 came to be registered on the basis of an First Information Report(FIR), dated 23.10.2021, lodged by one Shri Techi Bidu to the Officer-in-Charge of Itanagar Police Station, alleging that one Shri Panna Deb, a proprietor of M/s Shiv Ganesh Traders, a resident of Ulubari G.S. Road, Guwahati, Assam, has made him to pay a sum of Rs. 30 lakhs on the promise that Shri Deb will allow the complainant to supply electronic and grocery items worth an amount of Rs. 1 crore.

Despite the complainant was made to part with Rs. 30 lakhs; Shri Deb, the proprietor of M/s Shiv Ganesh Traders, a resident of Ulubari G.S. Road, Guwahati, Assam, did not make arrangements for supply of electronic and grocery items by the complainant Shri Bidu worth an amount of Rs. 1 crore.

During the course of the investigation, it appears that the I.O. of the case had found that the present accused applicant had withdrawn an amount of Rs. 60 lakhs from the Bank Account of Shri Panna Deb @ Rohit Deb; the main accused against whom the First Information Report(FIR), dated 23.10.2021, has been lodged, thus, making the present accused applicant a prime suspect in the offence committed by Shri Deb against the complainant Shri Bidu in parting with Rs. 30 lakhs by Shri Bidu.

In this regard, the accused applicant was issued a notice under Section 41(a) of the Code of Criminal Procedure, 1973, by the I.O. of the case to appear on 17.04.2023, to which the accused applicant failed to appear purportedly on account of his ill-health.

Considering the nature of the allegations made against the main accused Shri

Panna Deb, the proprietor of M/s Shiv Ganesh Traders, a resident of Ulubari G.S. Road, Guwahati, Assam, and also taking note of the fact that during the investigation, it has been found that the present accused applicant had withdrawn an amount of Rs. 60 lakhs from the Bank Account of Shri Deb; it is hereby deemed appropriate that the related CD be perused by the Court before any order granting interim pre-arrest bail to the accused applicant, is passed by the Court.

As prayed for, list this matter again on 22nd of May, 2023, enabling Mr. Ete, learned Addl. P.P., Arunachal Pradesh, to place before this Court, the related CD."

4. Pursuant to the aforesaid order, Mr. Ete, learned Additional Public Prosecutor has produced the Case Diary. Mr. Ete, learned Additional Public Prosecutor, on the basis of the Case Diary has submitted that the Investigating Officer has examined as many as 5 (five) witnesses so far and none of the witnesses has alleged anything against the applicant. He, however, submits that the applicant is found to have withdrawn Rs. 60 lakhs from the bank account of one *Shri Panna Deb*, against whom, the F.I.R., dated 23.10.2021 has been lodged.

5. Having considered the submission of the learned counsels appearing for the parties and on perusal of the Case Diary, I am of the view that this application under Section 438 Cr.P.C. for grant of pre-arrest bail to the accused applicant, in connection with Itanagar Police Station Case No. 449/2021, registered under Sections 406/34 of the Indian Penal Code, deserves to be allowed.

6. Accordingly, it is provided that in the event the accused, namely, *Shri Pinak Pani Roy*, is arrested in connection with Itanagar Police Station Case No. 449/2021, registered under Sections 406/34 of the Indian Penal Code, he shall be released on pre-arrest bail on furnishing a bail bond of Rs. 20,000/-, with 2 (two) sureties of like amount subject to the satisfaction of

the arresting authority, on the following terms and conditions:

- a. That the applicant shall appear before the Investigating Officer within 10(ten) days from today for recording his statement.
- b. 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; and
- c. That the applicant shall co-operate in the investigation of the case as and when required.

JUDGE

Comparing Assistant