

GAHC040006402023



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

Case No. : BA 50/2023

1:Atiquel Islam
S/o Lt. Abdul Kader,
R/o Village Dharakoba (Arat),
PO Rahamadhab Hat, PS Mankachar, District South Salmara Mankachar, Assam. Pin
783131

VERSUS

1:THE STATE OF AP
Represented by the P.P AP.

Advocate for the Petitioner : M A Islam

Advocate for the Respondent : P P of AP

BEFORE
HONBLE MR. JUSTICE KARDAK ETE

ORDER

Date : 15-06-2023

Heard Mr. P. J. Saikia, learned Senior counsel assisted by Mr. A. Islam, learned counsel for the applicant/accused also heard Mr. T. Ete, learned Additional PP for the State of Arunachal Pradesh and Mr. T. Topu, learned counsel for the informant.

2. This is an application under Section 439 of Cr.PC, 1973 praying for grant of

bail to the applicant/accused in connection with Naharlagun P.S. Case No. 14/2023 under sections 120(B)/ 409/420 IPC, 1860.

3. The case of the petitioner in a nutshell is that on 18.01.2023, an FIR was lodged by one Shri Ngurang Rikam of Prem Nagar, Naharlagun before the Naharlagun Police Station against the petitioner and four others stating inter-alia therein that a heinous crime of cheating and fraud of Rs. 3, 27, 00,000/- (Rupees Three Crores Twenty Seven Lakhs) was committed with the informant and further stated that in the month of June, 2021, the informant met one Shri Ibom Boje at Doimukh and gradually they developed a friendly relation. Thereafter, the said Ibom Boje introduced the informant with the applicant/accused about six months back and both of them offered a proposal to the informant to buy a plot of land at North Lakhimpur and offered a bank loan of Rs. 30,00,000,00/- (Rupees Thirty Crores) and asked the informant to deposit an amount of Rs. 300,000,00/- (Rupees Three Crores) as down payment for the said loan amount. It has also been alleged that in order to buy the aforementioned plot of land, the informant deposited a total amount of Rs. 27,00,000/- (Rupees Twenty Seven Lakhs) partially in cash and bank transfer to the account of the said Ibom Boje and the present applicant/accused. But in the month of October, 2022, the said Ibom Boje and the accused offered a proposal to the informant to avail bank loan of Rs. 30,00,000,00/-(Rupees Thirty Crores) against the said landed property and introduced with one Shri Prashant Bhuyan and Shri Ritu Raj Hazarika who identified themselves as the employees of the Punjab National Bank, Patna Branch, Bihar and they had agreed to disburse the loan. Thereafter, on 12.01.2023, the said two employees of the Punjab National Bank called the informant and asked him to deposit Rs.3,00,000,00/- (Rupees Three Crores) in cash in the shop of one Hemant Agarwal at Ganga Market,

Itanagar. According to the instructions of the said two persons, the informant arranged the cash and paid the same to the said Hemant Agarwal but thereafter, they switched off their mobile phones and became traceless. Based on the aforesaid allegations, the FIR was registered as Naharlagun P.S. Case No. 14/2023 under sections 120(B)/409/420 IPC, 1860.

4. Pursuant to the aforesaid FIR, the investigating authority arrested the petitioner on 27.04.2023 from Guwahati and took him to police custody. Further, the petitioner was taken into police remand for interrogation and after the remand period, the petitioner was forwarded to judicial custody.

5. Mr. P. J. Saikia, learned Senior counsel for the applicant/accused submits that the applicant/accused is a practicing Advocate in the Hon'ble Gauhati High Court residing in Guwahati. In the course of the professional work, one Ibom Boje of Doimuk of Arunachal Pradesh met the applicant/accused and he did some professional works as engaged by Mr. Ibom Boje. After a few months, the informant and Mr. Ibom Boje approached the applicant/ accused regarding the purchase of land and requested for preparation of documents for which some money was paid to the applicant/accused by way of professional fees. He had no knowledge about any conspiracy that may have been hatched by the other accused including the bank employees. Therefore, the applicant/accused is not at all involved in any conspiracy to cheat the informant. His only relation was of client and the Lawyer. Mr. P. J. Saikia, learned Senior counsel submits that the applicant/accused has been falsely implicated and was arrested on 27.04.2023 and it has been about 50 days now since his arrest, during which the Investigating Authority had thoroughly interrogated the applicant/accused and as such, no further custodial interrogation may be necessary.

6. Mr. P. J. Saikia, learned Senior counsel further submits that the applicant/accused is a practicing Lawyer of about 10 years standing and he is the only person to look after his family having a minor child of just nine months for which further detention of the petitioner will have cascading effect on the professional career of the applicant/accused and the family members would hugely suffer. Therefore, considering all the above circumstances, the learned Senior counsel prays that the applicant/accused may be enlarged on bail on any condition as this Court may deem fit and proper.

7. Mr. T. Ete, learned Additional PP has produced the case diary.

8. Mr. T. Ete, learned Additional PP referring to the materials available on record especially the statements recorded under Section 161 of Cr.PC submits that there is a clear involvement of the accused in commission of offence in the present case. He submits that several persons are involved in the commission of the offence for which some other accused(s) are yet to be arrested. Therefore, the accused/applicant is not entitled to bail, as it will hamper the investigation.

9. I have carefully considered the submissions advanced by the learned counsel for the parties and also gone through the CD.

10. On perusal of the record including the CD it transpires that there are five accused persons involved in the case, one of which is the present applicant/accused.

11. The statements of the accused persons recorded under section 161 Cr.PC, 1973 including the applicant/accused indicates the involvement of the applicant/accused and there are incriminating materials which clearly shows the

involvement of the present applicant/accused.

12. Having considered the submissions made by the learned counsel for the parties and the materials as stated above and considering the fact that some more accused(s) are yet to be arrested, this Court is of the considered view that the applicant/accused is not entitled to be released on bail at this stage.

13. Accordingly, the bail application praying for release of the accused person on bail is rejected.

14. The bail application stands dismissed.

JUDGE

Comparing Assistant