

GAHC040009572023



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

Case No. : AB/40/2023

Yagum Kabak
D/o Lt. Kabak Tachuk,
R/o C II Sector, Itanagar, PO/PS Itanagar, District Papum Pare, Arunachal Pradesh.

VERSUS

THE STATE OF AP
Represented through Public Prosecutor.

Advocate for the Petitioner : Arup Bhattacharjee

Advocate for the Respondent : P P of AP

BEFORE
HONBLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : **24.07.2023**

Heard Mr. A. Bhattacharjee, learned counsel for the petitioner and also heard Mr. J. Tsering, learned Public Prosecutor for the State respondent.

2. This is an application under Section 438 Cr.P.C. praying for grant of pre-arrest bail to the accused/petitioner namely, Smti Yagum Kabak, in connection with Naharlargun P.S. Case No. 111/2023, under Sections 409/420/423/465/467/468/471/477A IPC.

3. It is submitted by the learned counsel for the petitioner that after obtaining the interim anticipatory bail, the petitioner received the notice and accordingly appeared on 23/07/2023 and gave her statement before the Investigating Officer under Section 161 Cr.P.C. She was under medical treatment and after giving the information, she had already appeared before the Investigation Officer and gave her statement. Further, she is ready to co-operate with the investigation of this case, if her interim pre-arrest bail is made absolute. Further it is submitted that she is the only bread-earner of the family and also looking after her four children and there is none to look after her family and hence in her absence, her entire family will suffer a lot. The petitioner is a permanent resident of her addressed locality and there is no chance of absconding if she is granted with the privilege of pre-arrest bail and accordingly, prayed to make the interim pre-arrest bail order dated 19.07.2023 as absolute in the same terms and conditions.

4. Mr. J. Tsering, learned Public Prosecutor has submitted in this regard, that this is a case where serious allegation has been brought against the accused/petitioner and as per the FIR and the statement made by the

complainant, it is seen that she has misused her official power and prepared some false document, like forged gift deed, in the name of the present informant and also shown that the informant has taken loan of Rs. 50,00,000/- (Rupees fifty lakhs) only at the rate of 5% interest for 6(six) months with a condition that if she fails to return the money, the said plot of land along with building, will be taken over as per the agreement. However, she denied the entire allegation made against her and she stated in her statement that on the request of one Smti. Zinta Chery, she made a loan agreement along with Shri Biswa Dhar and also executed a deed of agreement. Further, she stated that she is a government employee and she is holding a responsible post and she is no way involved in the alleged offence and falsely implicated in this case. However, it is submitted by the learned Public Prosecutor that the Investigating Officer has already recovered some of the relevant documents in this case and report of the Investigating Officer also does not specifically say about the requirements of the custodial interrogation of the present accused/petitioner.

5. After hearing the submissions of learned counsels of both sides, I have perused the Case Diary and other relevant documents.

6. The Investigating Officer of this case submitted the bail objection along with the status report and it is stated that the accused/petitioner being a government employee has misused her position by fraudulently using official records and preparing fake agreement in order to take due

privilege of taking huge amount of Rs. 50,00,000/- (Rupees fifty lakhs) only from a person and the case is at the nascent stage of investigation and hence the bail of the present petitioner may affect the further investigation of this case. As per the report of the Investigating Officer, during the course of the investigation, the said Smti Zinta Chery was also called for and her statement was also recorded under Section 161 Cr.P.C wherefrom, it also reveals that she was asked to put signature on some document on good faith and she being an uneducated lady, put signature on those documents without realizing any consequences. Further it is submitted by the Investigating Officer that when the accused/petitioner was examined she stated that the gift deed agreement and the money receipt were prepared by her which were fake in order to take money from one of her business partner namely, Shri Biswa Dhar.

7. In view of the above and also considering the nature of the allegation brought against the accused/petitioner and further considering the bail objection submitted by the Investigating Officer, I do not find it a fit case to extend the privilege of the pre-arrest bail to the present accused/petitioner as probability of tempering and hampering further investigation of this case by using her official position also cannot be rejected at this stage and hence for the interest of the proper investigation, I hereby reject the present anticipatory bail application filed by the accused/petitioner namely, Smti Yagum Kabak.

8. Consequently, the interim pre-arrest bail granted to the present

accused/petitioner vide order dated 19.07.2023 is hereby stands vacated.

Send back the Case Diary.

JUDGE

Comparing Assistant