



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

Case No. : AB/64/2023

Taba Pinka
S/o Shri Taba Doi, resident of Village Biko, PO/PS Yazali, District- Subansiri,
Arunachal Pradesh.

VERSUS

THE STATE OF AP
represented by (SPL) PP Arunachal Pradesh.

Advocate for the Petitioner : S K Deori

Advocate for the Respondent : Ojing Pada

BEFORE
HONBLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 11-10-2023

Heard Mr. D. Mazumdar, learned Senior Counsel for the applicant, assisted by Mr. S. K. Deori, learned counsel. Also heard Mr. O. Pada, learned Special Public Prosecutor for the SIC.

2. The applicant, namely, *Shri Taba Pinka*, has prayed for pre-arrest bail in connection with SIC (VIG) PS Case No. 02/2023, under Sections 120(B)/420/409/468/471 IPC, read with Section 13(2) PC Act, 1988.

3. It is submitted that right now the applicant is undergoing treatment at MAX Hospital, Delhi, after obtaining permission from the Investigating Officer. The applicant has also prayed for bail on the grounds of parity, as the main accused, Shri Tapi Gao, the Director of Education Department, who affixed his signatures on the appointment letters has already been enlarged on bail. The applicant has also prayed for bail on ground of parity as the accountant, who is alleged of having syphoned of funds has also been enlarged on bail.

4. The learned Special Public Prosecutor has raised serious objection stating that there are incriminating materials in the Case Dairy against the applicant.

5. The learned Special Public Prosecutor has relied on the decision of the Hon'ble Supreme Court, held in the case of ***P. Chidambaram vs. Directorate of Enforcement***, reported in ***(2019) 9 SCC 24***, wherein, it has been observed that:

“...81. Observing that economic offences constitute a class apart and need to be visited with different approach in the matter of bail, in Y.S. Jagan Mohan Reddy v. CBI (2013) 7 SCC 439, the Supreme Court held as under:-

“34. Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offences having deep-rooted conspiracies and involving huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.

35. While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial,

reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations.”
[underlining added]

82. Referring to *Dukhishyam Benupani, Assistant Director, Enforcement Directorate (FERA) v. Arun Kumar Bajoria* (1998) 1 SCC 52, in *Enforcement Officer, Ted, Bombay v. Bher Chand Tikaji Bora and others* (1999) 5 SCC 720, while hearing an appeal by the Enforcement Directorate against the order of the Single Judge of the Bombay High Court granting anticipatory bail to the respondent thereon, the Supreme Court set aside the order of the Single Judge granting anticipatory bail.

83. Grant of anticipatory bail at the stage of investigation may frustrate the investigating agency in interrogating the accused and in collecting the useful information and also the materials which might have been concealed. Success in such interrogation would elude if the accused knows that he is protected by the order of the court. Grant of anticipatory bail, particularly in economic offences would definitely hamper the effective investigation. Having regard to the materials said to have been collected by the respondent-Enforcement Directorate and considering the stage of the investigation, we are of the view that it is not a fit case to grant anticipatory bail.”

6. The learned Senior counsel for the applicant has, however, raised serious objection stating that at this stage the merit of the case cannot be considered. He further submits that the learned Special Public Prosecutor has cited a decision relating to economic offence but the present applicant is not liable in any economic offence. It is also submitted that earlier when notice was issued under Section 160 Cr.P.C., the applicant had already appeared before the Investigating Officer and had cooperated with the investigation and the applicant is still willing to cooperate with the investigation. It is also submitted that a balance has to be struck between the personal liberty of the applicant and enormity of the offence. The learned Senior counsel also submitted that all the co-accused, who are alleged in connection with this offence have already been enlarged on bail and Shri Jitendra Tiwari, who is

alleged with the similar offence has not been arrested as yet.

7. I have considered the submission at the Bar with circumspection. I have also perused the Case Diary. There are incrimination materials against the applicant. The Medico Legal Report submitted along with the application, reveals that the applicant is at present normal.

8. The allegation against the applicant, appears to be of an offence against the society at large. The investigation is still under progress. It appears that investigation may be adversely affected, if the applicant is insulated by an order of anticipatory bail. Considering the enormity of the offence, the import of this Sections, under which he is booked, it appears that the applicant at this stage of investigation, may not be entitled to anticipatory bail. The provisions under Section 438 Cr.P.C. has to be exercised in an untrammelled manner.

9. In view of the following discussions, the prayer for bail is rejected at this stage of investigation.

JUDGE

Comparing Assistant