

GAHC040014542023



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

Case No. : AB/75/2023

Nyado Tao
S/o Inya Tao, C/o Likhabali Police Station, PO/PS Likhabali, District Lower Siang,
A.P and Permanent resident village Kangku, PO/PS Likhabali, District Lower Siang,
Arunachal Pradesh.

VERSUS

THE STATE OF AP
represented by P.P of A.P

Advocate for the Petitioner : Lukter Jilen

Advocate for the Respondent : P P of AP

BEFORE
HONBLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 07-11-2023

Heard Mr. L. Perme, the learned counsel for the petitioner
and Mr. J. Tsering, the learned Public Prosecutor for the State of
Arunachal Pradesh.

2. Case diary is received, perused the same.
3. Heard both the sides.
4. This is an application filed under Section 438 of the Cr.P.C, praying for grant of pre-arrest bail to the accused, namely, Shri Nyado Tao, in connection with Likabali P.S. Case No.24/2023, under Sections 468/465/420/193/167/409/120 B IPC.
5. The learned counsel for the petitioner submitted that on 19.09.2023, on the basis of an FIR, rough General Diary entry was made and accordingly, the Officer-in-Charge of the concerned Police Station endorsed the alleged accused petitioner for investigation. And as per the said entrustment, when the petitioner enquired to the Doctor of the Primary Health Centre, the doctor informed that no such incident of accident had happened and hence, he did not make any inquiry and closed his enquiry. However, with a personal grudge, the S.P. has falsely implicated him in this case for no reason. He further submitted that in earlier occasion also one show cause notice was issued to him by the S.P. with allegation of non-communication of the procedures with the OC PS Likabali and with the allegation that he did not raise any objection for granting of bail to 5(five) accused persons. In that context, the present petitioner has also

submitted his written reply, however, S.P., Likabali having personal grudges against the present petitioner has falsely lodged a case against him on the basis of false enquiry report.

6. It is further submitted that it is not disputed that the case was endorsed to him on 19.09.2023 after lodging of an FIR in Likabali Police Station and on the basis of which he started his investigation and subsequently, it has come to notice that no such incident of accident had taken place. He is a responsible person and he is ready to cooperate with the further investigation of this case if he is granted with a privilege of pre-arrest bail.

7. In this context, the learned Public Prosecutor, Mr. J. Tsering has submitted that there is sufficient material in the case diary which reveals that one rough General Diary entry was registered and on the basis of that rough General Diary entry, the present petitioner left for the place of occurrence and on that particular day. He also reported before the police station that inquest on the death body was also conducted in presence of witnesses and post mortem was done and thereafter, the dead body was handed over to the family members of the deceased. But from the statements of the witnesses as well as from the enquiry report, it is clear that no such incident of accident had happened nor any person died on the day when FIR

was reported to be lodged. Further, he submitted that detail inquiry was conducted by the Officer-in-Charge of the concerned Police Station and accordingly, from the report itself it is seen that during the entire inquiry, the case which was registered as Likabali P.S. Case No.23/2023, under Sections 279/304(A) IPC was totally false and concocted. On the basis of the said inquiry report, the case was registered against the present petitioner under Likabali P.S. Case No.24/2023, under Sections 468/465/420/193/167/409/120 B IPC.

8. The learned Public Prosecutor further submitted that from the statement of the complainant it is seen that the matter came to the knowledge of the Officer-in-Charge of concerned P.S regarding the authenticity of the case when the insurance company came to his chamber asking for the copy of the FIR. Further, from the other statements of the witnesses also it is seen that there are sufficient implication against the present petitioner showing his involvement in the alleged offence.

9. The learned Public Prosecutor further submitted that I.O of this case also raised bail objection stating that there are probability of involvement of other officers also in connection with this case and the case is also in the stage of investigation and hence, bail of the present petitioner may hamper the investigation.

10. After hearing the submissions made by the learned counsel for both sides and considering the materials available in the case diary, it is seen that the I.O has already collected sufficient incriminating materials against the present petition and the involvement of other officers in connection with this case also cannot be denied and thus, I.O may require custodial interrogation of the present petitioner to unearth some other facts involved in this case. So, considering the gravity and nature of the offence and also for the interest of justice, I do not find it a fit case to extend privilege of pre-arrest bail to the petitioner at this stage, hence, the same stands rejected.

11. The anticipatory bail application is disposed of, accordingly.

JUDGE

Comparing Assistant