

GAHC040014802022



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

Case No. : AB 134/2022

1:Ahmad Ali Ayubi @ Ahmed Ali
S/o Late Ali Ahad.
Managing Director,
Henderson Construction India Private Limited, a resident of Ali Ahad Lane,
Cantonment area under Dibrugarh Police Station of Dibrugarh District, Assam
786005

VERSUS

1:THE STATE OF AP
To be represented by the Public Prosecutor, Arunachal Pradesh.

Advocate for the Petitioner : Ojing Pada

Advocate for the Respondent : P P of AP

BEFORE
HONBLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 05-01-2023

Heard Mr. A. Choudhury, learned counsel for the applicant and Mr. J. Tsering, learned Public Prosecutor for the State of Arunachal Pradesh as well as Mr. K. Tama, learned counsel for the informant.

It reveals from the record that the present applicant was on interim pre-arrest bail vide order, dated 06.12.2022 and the matter was listed on

12.12.2022 with a direction to the applicant to appear before the O.C. Itanagar Police Station on 09.12.2022 but he has failed to appear before the I.O. and vide order, dated 12.12.2022, this Court had extended his interim pre-arrest bail till 03.01.2023. On 03.01.2023, it was submitted by the applicant counsel that the applicant had preferred SLP before the Hon'ble Supreme Court for extension of interim pre-arrest bail granted by this Court on 06.12.2022 and it was also informed that the matter was listed on 04.01.2023 as Item No. 6 before the Hon'ble Supreme Court. Considering the submission of filing of SLP before the Hon'ble Supreme Court, the matter is listed today i.e. 05.01.2023.

Today the learned counsel for the informant has furnished the order passed by the Hon'ble Supreme Court in SLP No.12650/2022, wherein, the petition seeking special leave to appeal was rejected with the observation that there is no reason to entertain the petition under Article 136 of the Constitution of India.

It is submitted by the learned PP that the Case Diary has already been received on 03.01.2023 and accordingly, the Case Diary has been perused.

Heard the submission of both the sides.

It is submitted by the learned counsel for the applicant that he was misguided by some people, however, the applicant intends to compromise with the S & Y Builders and there is every possibility of amicable settlement and the applicant is also ready to repay the amount, if any.

Further, it is submitted that the applicant is a law abiding person and he

will co-operate in the investigation of the case, if he is granted with pre-arrest bail.

The learned PP submitted, in this regard, that in spite of specific order from this Court to co-operate with the I.O., the applicant failed to appear before the I.O. on 09.12.2022 nor co-operated in the investigation of this case rather he preferred SLP before the Hon'ble Supreme Court for extension of time which was accordingly rejected by the Hon'ble Supreme Court. Further, it reveals from the FIR that he misappropriated huge amount of money amounting to Rs.4.15 crores which he received from the informant/company and he already transferred the entire amount from his firm to the bank account of his wife and the statements are also available in the Case Diary.

Moreso, he also provided some fake bank guarantee and as per the report of the SBI Branch Manager, the bank guarantee which was furnished by the present applicant was a fake bank guarantee and for which the Branch Manager, SBI, Kolkatta had also lodged an FIR to that effect. There are sufficient incriminating materials against the applicant.

Further, it is submitted that considering the conduct of the applicant, it cannot be denied that there is every possibility of absconding or jumping over the bail condition, if the applicant is granted with the privilege of pre-arrest bail. Accordingly, the learned PP submits that the pre-arrest bail petition filed by the applicant is liable to be rejected.

The learned counsel for the informant Mr. K. Tama also submits that the informant/company has given 4.15 crores to the present applicant as he assured

of giving contract works of worth Rs.100crores with the informant/company and by furnishing the fake bank guarantee, he fled away and did not co-operate with the informant/company. So, the conduct of the applicant itself shows that applicant may hamper or tamper with the investigation of the case and at the same time there is every possibility of hampering or tampering with the evidence of the case, if the applicant is extended with the privilege of pre-arrest bail.

After hearing the submission of learned counsel for both the sides, I have perused the case record and the Case Diary, which reveals that the concerned I.O. has collected sufficient incriminating materials against the present applicant and from the materials available in the Case Diary, it is seen that his custodial interrogation may be required for the purpose of investigation. Moreso, the conduct of the applicant does not deserve with the privilege of pre-arrest bail.

In view of the above, the pre-arrest bail prayer is hereby rejected and the interim pre-arrest bail granted by this Court vide order, dated 06.12.2022 stands vacated.

With the above direction, this Anticipatory bail stands disposed of.

Send back the Case Diary, forthwith.

JUDGE

Comparing Assistant