

GAHC010000122023



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

Case No. : I.A.(Crl.)/2/2023

GHANA KANTA CHUTIA
S/O- SRI JADAB CHETIA, R/O- NO. 1 DOOMOR DOLONG, P.O. DOOMOR
DOLONG, P.S. MORAN, DIST- DIBRUGARH, ASSAM

VERSUS

THE STATE OF ASSAM,
TO BE REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. S J SARMAH

Advocate for the Respondent : PP, ASSAM

Linked Case : Bail Appln./3584/2022

GHANA KANTA CHUTIA
S/O- SRI JADAB CHETIA
R/O- NO. 1 DOOMOR DOLONG
P.O. DOOMOR DOLONG
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ASSAM

VERSUS

THE STATE OF ASSAM
TO BE REPRESENTED BY THE PUBLIC PROSECUTOR
ASSAM

Advocate for : MR. S J SARMAH
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

09.01.2023

Heard Mr. S.J. Sarmah, learned counsel for the accused-petitioner and Mr. B. Sarma, learned Additional Public Prosecutor for the respondent State of Assam.

2. By the application, B.A. no. 3584/2022 preferred under Section 439, Code of Criminal Procedure, 1973 [CrPC], the accused-petitioner viz. Ghana Kanta Chutia has prayed for his release on bail in connection with Sonari Police Station Case no. 121/2022 [corresponding G.R. Case no. 356/2022], registered under Sections 120B/420/408/409/468/471, Indian Penal Code [IPC].

3. The accused-petitioner was arrested and thereafter, produced before the Court of learned Chief Judicial Magistrate, Charaideo on 03.12.2022 and on being so produced, he was remanded to custody. Since 03.12.2022, the accused-petitioner is in custody.

4. The First Information Report [FIR] was lodged on 03.08.2022 by the informant along with 8 [eight] others projecting themselves as the victims of a conspiracy hatched by the accused-petitioner who has been arraigned as accused no. 3, in the FIR wherein a total of 4 [four] persons have been arraigned as accused. The accused-petitioner is a Sanitary Inspector under the Directorate of Health Services, Assam and the other accused persons are also employees of the Health Department. The informants have *inter alia* alleged that the

accused persons on the pretext of giving jobs in the Health Department in Charaideo district and Sivasgar district, had collected a huge amount of money from a large number of gullible job aspirants including them. The allegations is also to the effect that the fake appointment letters were issued to a number of such persons by the accused persons and those persons appointed on the basis of fake appointment letters, continued in their jobs illegally in the Health Department for a long time.

5. The accused-petitioner had earlier approached this Court twice seeking the privilege of pre-arrest bail under Section 438, CrPC by applications, A.B. no. 2661/2022 and A.B. no. 3072/2022. On both the occasions, the pre-arrest bail applications preferred by the accused-petitioner were rejected.

6. From the materials in the case diary, it has emerged that some victims, cheated by the accused-petitioner by practice of deception, have stated before the Investigating Officer [I.O.] of the case that the accused-petitioner had collected different amounts from them to provide them jobs in the Health Department of the State. It has emerged that the accused-petitioner and other co-accused persons provided fake appointment letters to many victims and those victims were also paid fixed salaries from the end of the accused persons. After paying such fixed salaries for few months, the accused persons stopped the payment of fixed salaries to the victims. In the process, some of the victims, who were expecting salaries from the Government, had continued to render services for several years in various health establishments of the State.

7. Mr. Sarmah, learned counsel for the accused-petitioner by referring to the statements made in the interlocutory application, I.A. [CrI.] 2/2023 and the certificate annexed as Annexure-1 thereto, has submitted that the father of the accused-petitioner, Jadav Chutia has expired, during the period of the accused-petitioner's custody, on 25.12.2022. He has submitted that *sraddha* rituals of the father of the accused-petitioner and other religious ceremonies would be performed on 10.01.2022 and 12.01.2022 respectively. As a son, the accused-petitioner is obligated to perform those religious rituals. As the accused-petitioner has been thoroughly interrogated in the meantime due to his custody since 03.12.2022 and

the fact that the accused-petitioner would not be in a position even if he is released on bail at this stage, to tamper with any kind of documentary evidence in the custody of the Health Department and in the I.O. of the case, seized already, the prayer for bail of the accused-petitioner may be considered.

8. Mr. Sarma, learned Additional Public Prosecutor has submitted that the allegations against the accused-petitioner are serious in nature.

9. From the materials on record including the materials in the case diary, it is noticed that the allegations against the accused-petitioner are of grave nature. The investigation of the case was initiated on 02.08.2022, after registration of the case on the said date. The accused-petitioner is in custody for 37 days since 03.12.2022. In view of his arrest for more than 48 hours, the accused-petitioner being a Government employee, is to be placed under suspension as per the Assam Services [Discipline & Appeal] Rules, 1964. It is noticed that in the meantime, most of the victims have been examined by the I.O. of the case. In view of placement of the accused-petitioner under deemed suspension, in view of his custody, the possibility of tampering with the documentary evidence, which are in the custody of the Health Department and the I.O. of the case, already, is remote. Considering the fact that the father of the accused-petitioner has expired on 25.12.2022 and the religious ceremony/*sraddha* in respect of the accused-petitioner's father would be held on 10.01.2023 and 12.01.2023 and the accused-petitioner as the son of the deceased is obligated to perform those, this Court is of the considered view that if the accused-petitioner is released on bail at this stage of investigation, further investigation of the case is not likely to be prejudicially affected, provided the accused-petitioner continues to extend his assistance and cooperation in the further investigation of the case.

10. Accordingly, the accused-petitioner is allowed to be enlarged on bail on furnishing a bail bond of Rs. 50,000/- with two sureties of the like amount to the satisfaction of the learned Chief Judicial Magistrate [M], Charaideo, Sonari, subject to the following conditions :-

[1] the accused-petitioner shall cooperate with the investigation and shall thereafter,

make himself available as and when his presence is required by the I.O. in the investigation of the case;

[2] The accused-petitioner shall not, directly or indirectly, make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer;

[3] The accused-petitioner shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police.

[4] the accused-petitioner shall not leave the territorial jurisdiction of the aforesaid police station, without prior written permission from its officer in charge;

[5] the accused-petitioner shall maintain law and order and he shall not commit an offence similar to the offence of which he is accused, or of the commission of which he is suspected; and

[6] the accused-petitioner shall regularly remain present during the trial and cooperate the Court to complete the trial for the above offences, if charge sheeted in the case.

11. This bail application, B.A. no. 3584/2022 and the interlocutory application, I.A.[Crl.] no. 02/2023 stand disposed of in the afore-mentioned terms.

JUDGE

Comparing Assistant