

GAHC010006812023



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

Case No. : Bail Appln./154/2023

TASDIQUR RAHMAN
S/O LATE FAZLUR RAHMAN
R/O CONL. J. ALI ROAD,
LAKHTOKIA, GUWAHATI, PIN-781001,
DIST. KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A M BORA

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

O R D E R

09.02.2023.

Heard Mr. AM Bora, learned Senior Counsel, being assisted by Mr. S. Nawaz, learned counsel for the accused and also heard Mr. M. Phukan, the learned Public Prosecutor, Assam appearing for the State of Assam.

2. This second bail application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused, namely, Tasdiqur Rahman, who has been languishing in jail since 06.11.2022, in connection with the Vigilance P.S. Case No.04/2022, under Sections 120(B)/420/406/409/468/471 IPC, read with Sections 13(1)(a)/13(2) of the Prevention of Corruption Act, 1988, for granting bail.

3. It is to be noted here that the above noted case has been registered on the basis of one FIR lodged by one Mrinal Sarma, Dy. Superintendent of Police, CM's Special Vigilance Cell, Assam, Rupnagar, on 21.10.2022, to the effect that the Commissioner, Guwahati Municipal Corporation (GMC) has detected some irregularities and illegalities in execution of de-siltation works in the Guwahati Municipal Corporation, for which he directed to conduct an enquiry by Shri Pankaj Chakravarty, ACS, Joint Commissioner, GMC. During enquiry it was detected that one Firm, namely, M/S. Dinsan Global Venture Pvt. Limited, owned by one Mithu Agarwal, was engaged for hiring vehicles/machineries for carrying out the de-siltation works of channels/drainage by issuing work order dated 21.05.2022, for the period from 02.04.2022 to 26.05.2022. The said Firm submitted bill, dated 27.06.2022, for a sum of Rs. 2,21,64,700/, and enclosed weighbridge slips of M/s Steel Udyog, Guwahati, and log books along with the bills which were found to be forged the same were submitted with connivance of the GMC Officials. The Firm also submitted inflated bills to GMC showing supply of vehicles/machineries and the de-siltation work was carried out without following the terms and condition of the Tender Documents and payments were released without proper execution of works based on forged and fake documents.

4. Mr. AM Bora, learned Senior Counsel for the accused submits that this is the second bail application filed after rejection of the first one on 16.12.2022, on the ground of length of detention and medical condition of the accused and submission of charge sheet after completion of investigation. Mr. Bora further submits that the accused is languishing in jail hazoot for last 95 days and the investigation of the case has already been completed and the I.O. has laid charge sheet before the learned Court below against the accused with some other co-accused to stand the trial. Further, Mr. Bora submits that the accused is a retired Chief Engineer and he has been suffering from ailment of heart and his attending Doctor suggested him for placement of stent, as he has some blockage in his heart. Besides, he is also a diabetic person and he is ready to cooperate with the investigating agency and therefore, considering his health condition and period of detention, it is contended to allow the accused to go on bail.

5. Per contra, Mr. M. Phukan, learned P.P., Assam submits that investigation has already be completed and charge sheet has been laid by the I.O. before the learned Court below and the I.O. has collected sufficient incriminating materials against him and therefore, Mr. Phukan has opposed the petition. However, Mr. Phukan submits that if the Court consider his bail petition, in view of his medical condition, then strict condition may be imposed.

6. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the scanned copy of the record, received from the learned Court below.

7. It appears that the I.O. has already completed investigation and submitted

charge sheet against the accused along with some other co-accused to stand the trial under Sections 120(B)/420/406/409/468/471 IPC, read with Sections 13(1)(a)/13(2) of the Prevention of Corruption Act.

8. There is no doubt that the offences are serious in nature, involving defalcation of huge amount of public money and thereby causing loss to the State exchequer. But, the medical documents enclosed with the petition reveals that the accused is suffering from diabetic neuropathy and there is left anterior fascicular blockage in his heart and it is submitted by the learned Senior Counsel for the accused that immediate intervention is necessary in respect of placement of stent in the blocked area.

9. Having considered the medical condition of the accused which is discernable from the submission of learned counsel for the accused and also from the medical documents enclosed with the petition and further considering the submission of learned Advocates of both sides as well as the period of detention, this Court is inclined to enlarge him on bail.

10. Accordingly, it is provided that on furnishing a bond of Rs.1,00,000/- (Rupees one lac) only, with one surety of like amount to the satisfaction of the learned Special Judge, Assam, the accused person, named above shall be enlarged on bail, in connection with the Vigilance P.S. Case No.04/2022.

The above privilege is however subject to following conditions:

- (I) He shall not leave the jurisdiction of learned Special Judge, Assam, without prior permission.
- (II) He will appear before the learned Court below, on each and every date, and
- (III) He shall surrender his Passport, if any, before the learned

Special Judge, Assam.

In terms of above, this bail application stands disposed of.

JUDGE

Comparing Assistant