

GAHC010010772023



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

Case No. : AB/152/2023

DIBYADHAR PHUKON
S/O LT. TEPURAM PHUKAN R/O TEOK BAGAN BENGALI GAON P.O. TEOK
PIN-785112 P.S TEOK PIN-785112 P.S TEOK DIST. JORHAT ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. P HAZARIKA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 04-10-2023

Heard Mr. P. Hazarika, learned counsel for the applicants and also heard Mr. P.Borthakur, learned Addl. P.P. for the State respondent.

Apprehending arrest in connection with Jorhat P.S. Case No. 927/2022, under Section 120(B)/420/408/468/471 IPC, this application under Section 438 Cr.P.C. is preferred by applicant, namely, Dibyadhar Phukan for grant of pre-arrest bail.

The above noted case has been registered on the basis of an FIR lodged by one Bikash Sarma,

District Deputy RCS, Jorhat on 30.12.2022.

The essence of allegation made in the FIR dated 30.12.2022, is that an enquiry was conducted on the basis of one complainant submitted by one Pradip Kalita and 13 others and during enquiry, it has come to light that some irregularities in maintaining the all books of record relating to accounts of Asom Bahumukhi Samabai Samitee limited have been committed and the Secretary, Sri Dibyadhar Phukan is liable for the said irregularities as it was his duty to look after all the matters, including accounts.

Mr. Hazarika, learned counsel for the applicant submits that this Court vide order dated 7.2.2023, was pleased to grant interim protection to the applicant and pursuant to the said order dated 7.2.2023, the applicant had appeared before the I.O. and his statement was recorded and that he has been cooperating with the Investigating Agency, therefore, it is contended to allow the petition.

On the other hand, Mr. Das, learned Addl. P.P. submits that he has not received the case diary though, on ten occasions, reminder was issued to the I.O. concerned, to transmit the case diary, and therefore, Mr. Das contended to grant him some more time to produce the case diary before this Court.

Having heard the submission of learned Advocates of both sides, I have carefully perused the petition and the documents placed on record.

It appears from the record that the case diary was called for vide order dated 13.9.2023, 21.8.2023, 27.7.2023, 6.6.2023, 5.6.2023, 23.5.2023 then 10.4.2023, 9.3.2023 and in spite of getting sufficient opportunities, the learned Addl. P.P. has failed to produce the case diary before this Court .

It is to be noted here that the case was registered on 30.12.2022 and the I.O. got more than 9 months to investigate the same. And in view of above, I find no such ground to adjourn the case to another date, so as to enable Mr. Das, learned Addl. P.P. to produce the case diary.

As submitted by Mr. Hazarika, learned counsel for the applicant, the applicant had appeared before the I.O. and his statement was recorded and he has been cooperating with the investigating agency.

In view of above, and also in view of failing to produce the case diary before this Court, this Court is inclined to make the interim order dated 7.2.2023, is hereby made absolute in the same

terms and condition.

In terms of the above this A.B stands disposed of.

JUDGE

Comparing Assistant