

GAHC010012072023



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

Case No. : AB/144/2023

LAISHRAM LADU SINGH
S/O LATE L BIRA SINGH
RESIDING AT THE VICE CHANCELLOR
RESIDENTIAL PREMISES OF BODOLAND UNIVERSITY, KOKRAJHAR
P.O. AND P.S. KOKRAJHAR,
DIST. KOKRAJHAR, BTR, ASSAM
PIN-783370

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. D P MANDAL

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MRS. JUSTICE MALASRI NANDI
ORDER

02.02.2023

Heard Mr K N Choudhury, learned Senior Counsel appearing on behalf of the petitioner and Mr M Phukan, learned Public Prosecutor, appearing on behalf of the State of Assam.

2. Case Diary is received.

3. By filing this application under Section 438 CrPC, the petitioner, Prof. Laishram Ladu Singh, is praying for granting him pre-arrest bail in connection with Vigilance PS Case No. 01/2022, under Sections 120(B)/420/409 IPC, read with Section – 13 (a) (2) of the Prevention of Corruption Act, 1988.
4. The allegation as per FIR is that the petitioner had ordered lots of construction works to one M/s R D Enterprise of Rs. 19, 55,984/- for the construction of market complex, drains, construction of drains culvert etc. of Bodoland University without maintaining proper procedure and tender. The second allegation is that the Finance Officer, namely, Prof. E Nixon Singh has been appointed under favouritism, as he has not fulfilled all the criteria as per the advertisement Rules. It is also alleged in the FIR that one Dr Nilkamal Singh , Assistant Professor of Department of History of Bodoland University has been suspended, but he has been getting full salary during his suspension period. The complainant also alleged in the FIR that one Melody Thangjam has taken admission in Bodoland University for Ph.D without appearing in any entrance examination.
5. On receipt of the complaint, a case was registered vide Vigilance Police Station Case no. 1/2022, under Section 120(B)/420/409 IPC, read with Section 13 (a) (2) of PC Act.
6. Learned Senior Counsel, Mr K N Choudhury, has submitted that the petitioner is the Vice Chancellor of Bodoland University, Kokrajhar. He found numerous anomalies in the administration of the University that the University was functioning without Registrar. During day-to-day administrative function, the petitioner detected multiple irregularities of illegal transactions of fees/ amounts in bearer cheques instead of account pay cheques to the contractor.
7. It is also submitted that during the tenure of the petitioner, on his approach before the Governor of Assam, the Registrar of Bodoland University has been appointed. It is further submitted that in the name of student organization, some political persons tried to

influence the petitioner on his administrative works, but he did not pay heed to their directions, as a result of which, this FIR has been lodged as aforesaid.

8. Learned Senior Counsel for the petitioner also submitted that a notice under Section 41-A CrPC was issued to the petitioner and accordingly, he has appeared before the Investigating Officer on 03.01.2023. It transpires that he would cooperate with the investigation. As he is the Vice Chancellor of a reputed university, there is no chance of his absconding, if he is protected under the privilege of pre-arrest bail.

9. Per contra, Mr Phukan, PP has fairly submitted that though in the Case Diary, there is allegation found against the present petitioner, however, on receipt of the notice under Section 41-A CrPC, the petitioner has appeared before the Investigating Officer, from which it can be presumed that he would cooperate with the investigation and as such, bail may be granted to him.

10. I have considered the submissions made by the learned counsel for both the parties. I have also perused the Case Diary.

11. In so far as the grant or refusal of the anticipatory bail is concerned, the Hon'ble Supreme Court in the case of *Siddharam Satlingappa Mhetre vs. State of Maharashtra & ors.*, reported in (2011) 1 SCC 694, had laid down the parameters as under:

- 1) The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;
- 2) The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;
- 3) The possibility of the applicant to flee from justice;
- 4) The possibility of the accused's likelihood to repeat similar or the other offences.
- 5) Where the accusations have been made only with the object of injuring or

humiliating the applicant by arresting him or her.

6) Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people.

7) The courts must evaluate the entire available material against the accused very carefully.

8) While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;

9) The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;

10) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.

12. Admittedly, in the case in hand, the petitioner is the Vice Chancellor of Bodoland University. I have perused the statements of the witnesses recorded under Section 164 CrPC, from which it reveals that though tender was called for, the construction work inside the Bodoland University was instructed through the Building Works Committee (BWC) by engaging local contractor, but the copy of tender or the handing over of the works to Building Works Committee (BWC) are not available in the record. The substantial part of investigation appears to be completed.

14. In view of above and considering the submissions of learned counsel for the parties and under the background of the prosecution case, this Court is of the opinion that the privilege of pre-arrest bail may be extended to the petitioner. Accordingly, it is provided that in the event of his arrest in connection with Vigilance Police Station Case No.

01/2022, the petitioner, namely, Prof. Laishram Ladu Singh, shall be released on pre-arrest bail on executing a bond of Rs. 20,000/- (Rupees Twenty Thousand), with one surety of like amount to the satisfaction of the arresting authority. The above privilege is, however, subject to the following conditions:

- (i) the petitioner is directed to appear before the Investigating Officer within a period of 10 (ten) days from today.
- (ii) that the petitioner shall make himself available for interrogation by the Investigating Officer as and when required;
- (iii) that the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer.
- (iv) The petitioner shall not leave the jurisdiction of the Court, without prior permission. In case of violation of any of the above conditions by the petitioner, the learned Public Prosecutor is at liberty to move before this Court for cancellation of bail.

15. With the aforesaid observations and directions this Anticipatory Bail Application stands disposed of.

16. Send back the Case Diary.

JUDGE

Comparing Assistant