

GAHC010020212023



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

Case No. : AB/295/2023

SURAJ NATH
S/O- KHITISH CH. NATH, R/O- BILASIPARA TOWN, WARD NO. 11, P.S. AND
PO. BILASIPARA, DIST. DHUBRI, ASSAM, PIN- 783348.

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE P.P., ASSAM

Advocate for the Petitioner : MR. M HUSSAIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 14.03.2023

Heard Mr. M. Hussain, learned Counsel appearing for the
petitioner.

Also heard Mr. M. P. Goswami, learned Additional Public
Prosecutor appearing for the State of Assam.

This Anticipatory Bail petition has been filed by the petitioner, namely, Suraj Nath in connection with Bilasipara Police Station Case No. 363/2022 under Section 13/14/15 of the Assam Game and Betting Act, 1970.

By an FIR dated 30.11.2022 lodged by WSI (P) Manashi Chetia, Bilasipara P.S, it was alleged that during a raid conducted at Chawk Bazaar area under Bilasipara P.S. two Teer gambler namely, Aminul Rahman and Nur Alom Hussain were apprehended along with some gambling materials and Rs.11,420/- (Rupees eleven thousand four hundred twenty) only, four (4) numbers of Mobile handset and one (1) Motor cycle. Subsequently on the same day another raid was conducted two Teer gamblers namely, Kaushik Saha @ Raja and Suren Basfore were also apprehended from Rokakhata area under Bilasipara P.S. Some gambling materials along with some gold ornaments, six (6) numbers of Mobile handset, cash worth Rs.62,092/-, one (1) laptop, two (2) numbers of Motor Cycle, one (1) Thar four wheeler, one (1) Innova Crysta four wheeler, one (1) Swift Desire four wheeler were seized from the possession of Kaushik Saha. All the seizures were made in the presence of witnesses. It was alleged that all the accused persons were continuing with illegal Teer gambling business in Bilasipara area since long time and has been collecting money for illegal gain.

The said FIR was received and registered as Bilasipara P.S. Case No. 363/2022 under Section 13/14/15 of the Assam

Game and Betting Act, 1970.

Learned counsel for the petitioner submits that the petitioner is a driver by profession and has been working as a driver of one of the accused persons namely, Kaushik Saha @ Raja since a long time. The learned counsel for the petitioner submits that he is not involved in the illegal Teer gambling business. However, pursuant to the arrest of his owner namely, Kaushik Saha, he being the driver, the police in connection with the aforesaid case has been seeking to arrest him as per his information. It is submitted that the petitioner is innocent and is not connected with the said Teer gambling business. He is apprehending arrest by the police in connection of the aforesaid case and as therefore, filed the instant anticipatory bail petition.

It is further submitted by the learned counsel for the petitioner that this Court vide order dated 20.12.2022 passed in Bail Application No. 3566/22 had enlarged Suren Basfor and Kaushik Saha @ Raja on bail pursuant to their arrest on 30.11.2022. It is submitted that the petitioner is not a named accused in the FIR and he was not present at the time when the raid was conducted by the police. Merely because he was employed as a driver of the accused Kaushik Saha @ Raja, he is sought to be arrested by the police.

This Court by order dated 03.02.2023 called for the Case Diary. The Case Diary called for has been received.

Heard Mr. M. P. Goswami, learned Additional Public

Prosecutor for the State. He submits that the matter is under investigation and at this stage grant of anticipatory bail to the petitioner will not be in the interest of the investigation as the petitioner may not co-operate with the investigation.

The case diary produced by the learned Additional Public Prosecutor has been perused. Pleadings on record have also been carefully perused.

Upon hearing the learned counsels for the parties, this Court is of the considered view that though the case diary reveals statement by co-accused that the present petitioner was also involved in the illegal gambling, however, no other incriminating materials are seen from the case diary at this stage of investigation in so far as the petitioner is concerned. It is also seen that this Court vide order dated 20.12.2022 had granted bail to the petitioners namely, Suren Basfor and Kaushik Saha @ Raja vide Bail Application No. 3566/22.

Accordingly, this Court is of the view that the prayer made for grant of anticipatory bail can be granted to the present petitioner. There are no incriminating materials found in the case diary so as to reject his prayer for grant of anticipatory bail. No materials are available in the case diary to suggest that grant of anticipatory bail to the petitioner will affect in any manner, the investigation carried on by the police.

Accordingly, this anticipatory bail petition is allowed. In the event of his arrest in connection with Bipasipara P.S. Case No. 363/2022, the petitioner shall be released on a bail bond

of Rs.15,000/- (Rupees fifteen thousand) only with two local sureties of like amount to the satisfaction of the arresting authority.

The petitioner will co-operate with the investigation undertaken by the Investigating Officer in connection with Bilasipara P.S. Case No. 363/2022. The anticipatory bail granted however, is subject to the following conditions:-

1. That the petitioner shall appear before the Investigating Officer within 7 (seven) days from today and such other dates as required by the I/O till the charge-sheet or the Final Report as the case may be is filed and co-operate in the investigation as and when required;
2. The petitioner shall not leave the territorial jurisdiction of the police station, without prior written permission from Officer-in-Charge, Bilasipara Police Station.
3. That the petitioner shall not hamper or tamper with the investigation in any manner; and
4. That the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person/witness acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer in connection to this Police Station Case.

If any of the conditions are found to be violated by the petitioner then the Investigating Officer shall be at liberty to seek cancellation of the anticipatory bail granted to the petitioner.

This bail petition is accordingly disposed of.

Case dairy be returned.

JUDGE

Comparing Assistant