

GAHC010033132023



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

Case No. : AB/506/2023

RATHIN BARUAH @ RATHIN CHANDRA BARUAH
S/O LATE GANESH CHANDRA BARUAH
H. NO. 15, PNGB ROAD,
SHANTIPUR
P.S. BHARALUMUKH
P.O. GUWAHATI-781009

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. K D CHETRI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 14-03-2023

Heard Mr. K.D. Chetry, learned counsel for the petitioner.

Also heard Ms. N. Das, learned Additional Public Prosecutor for the State of

Assam.

Apprehending arrest under section 438 Cr.P.C., the petitioner namely, Rathin Barua @ Rathin Chandra Baruah, is seeking pre-arrest bail in connection with Bharalumukh P.S. Case No. 36/2023, under sections 406 of IPC.

Case diary is received, perused the same.

The F.I.R. unfolds that the proprietor i.e the present petitioner of M/S BIPICIRI enterprise entered into an agreement with Indian Army, Department of Defense, Government of India, 311COY ASC(SUP) Type "G" Missamari, Assam vide agreement No. 214/OS/Q, dated 30.03.2019. The said agreement between the parties was for outsourcing of 20(twenty) daily wage labourer at Missamari cantonment for the period from 1st April 2019 to 31st March 2020. Further, the petitioner without any dispute between the parties was able to secure another contract with the same principal employer vide GEM contract No. GEMC-511687794815635 for the period from 7th April 2020 to 06th April 2021 to the satisfaction of the principal employer.

On receipt of the vague complaint, without naming the beneficiary or the alleged aggrieved persons had lodged an FIR being enforcement officer of the Employee's Provident Fund Organization (Ministry of Labour & Employment) Government of India, and the said authority is also undersigned as an Inspector appointed under section 13 of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 and he is authorized to lodge an F.I.R. on behalf of the Department, made an alleged allegation of Criminal Breach of Trust of Rs. 11,46,944/- by the petitioner, had not deposited the Employees Provident Fund (EPF) and other statutory contributions by the Contractor/petitioner in the Employers statutory fund from the wages of the employees as the employees share of contributions to the department.

The learned counsel for the petitioner submitted that the allegations brought against the petitioner is false and he is no way involved with the alleged offence. He appeared before the I.O and gave his statement under section 161 of Cr.P.C.

On the other hand, the learned App has submitted that there is sufficient incriminating materials against the present petitioner and the I.O has collected sufficient materials during the investigation. As the investigation is under progress, at this stage custodial interrogation of the present accused petitioner is necessary.

I have perused the case diary, there is sufficient materials against the petitioner in the case diary and the investigation is still under progress. So considering the materials in the case diary and the nature of offence, I find that custodial interrogation may be necessary in this case to unearth some facts in the present case. Accordingly, I find that it is not a fit case where the privilege of pre-arrest bail can be granted to the petitioner.

Hence it is rejected.

The interim pre-arrest bail granted to the petitioner vide order dated 21.02.2023, stands vacated.

With the above observations petition stands disposed of.

JUDGE

Comparing Assistant