

GAHC010036922023



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

Case No. : AB/543/2023

KAPIL DEV SINGHAL
S/O SRI SURESH KUMAR SINGHAL
R/O MAHALAYA APARTMENTS, LACHIT NAGAR, DIST. OF KAMRUP (M),
GUWAHATI, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MS. B S GOYAL

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 15.03.2023

Heard Mr. B. S. Goyal, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 438 of the Code of Criminal Procedure praying for grant of pre-arrest bail to the accused/petitioner, who is apprehending arrest in connection with BI(EO) P.S. Case No. 07/2023, under Sections 120(B)/468/471/420 of the Indian Penal Code.

The Case diary has been received and I have perused the same.

It is submitted by the learned counsel for the petitioner, Ms. B. S. Goyal, that the petitioner is a businessman and is a dealer of coal in the name of M/S KSG TRADERS, a registered firm under the Goods and Services Tax Act, 2017, with GST registration and a GST Registration Certificate is also issued accordingly and the F.I.R. has been lodged against him with allegation that he deliberately entered into a nexus of common criminal conspiracy with *mala fide* intent to defraud and deprive both the Center and the State of its legitimate revenue. In the preliminary investigation, the petitioner was summoned by the Sales Tax Authorities and his statement was recorded and he was also served with a notice under Section 91 Cr.P.C. and accordingly, he appeared before the concerned authority with all connected documents. Further, the petitioner also appeared before the I.O. on 03.03.2023, 04.03.2023, 10.03.2023 & 13.03.2023 and produced all relevant documents as was asked to produced under Section 91 Cr.P.C. Accordingly, after obtaining the order of interim pre-arrest bail, the petitioner has already appeared before the I.O. and recorded his statement and thereby co-operated with the I.O. in the investigation of this case and he is still ready to extend his full co-operation in the further investigation of this case and there is no chance of hampering or tampering the investigation of the case by the petitioner and hence, it is prayed to make the interim order, dated

22.02.2023, absolute.

On the other hand, the learned Additional Public Prosecutor, Mr. P. Borthakur, raised objection and submitted that the offence alleged to have been committed by the present accused/petitioner is mainly evading taxes and to defraud the State etc. and thus, during investigation, from the report of the I.O., though some of the documents were furnished before him, the petitioner failed to produce all the relevant documents before the I.O. More so, the petitioner confessed before the I.O. regarding the commission of indulging in fake bill process and he was not in a position to submit any documentary evidence against the claim of ITC. It further reveals from the note of the I.O. that the Taxation Department has conclusive reasons to believe that the present petitioner has claimed ITC on the basis of fake invoices against inward supply without causing movements of goods. Accordingly, the learned Additional Public Prosecutor raised objection in granting the privilege of pre-arrest bail to the accused/petitioner submitting that this a serious kind of economic offence and the investigation is still going on and hence custodial interrogation of the present accused/petitioner may be necessary for the purpose of investigation.

After hearing the submissions of learned counsels of both sides, I have perused the Case Record as well as the Case Diary and it reveals that sufficient incriminating materials have already been collected by the I.O. against the present accused/petitioner and the investigation is still in progress. But, it cannot be denied that the accused/petitioner appeared before the I.O. on 3-4 occasions and co-operated in the investigation of this case and he also produced the documents which was asked to produce before the I.O. under Section 91

Cr.P.C. The entire case is mainly based on documentary evidence.

Thus, considering all these aspects of the case, I find it a fit case to extend the privilege of pre-arrest bail to the accused/ petitioner and accordingly, the interim pre-arrest bail granted to the present accused/petitioner vide order dated 22.02.2023 is hereby made absolute with the following terms and conditions:

- (i) that the petitioner shall make himself available for interrogation by the Investigating Officer every alternative 7 (seven) days or as and when required; and
- (ii) 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.

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

The Case Diary be sent back.

JUDGE

Comparing Assistant