

GAHC010047712023



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

Case No. : AB/768/2023

VIVEK PHUKAN
S/O LT. DILIP PHUKON,
R/O- SYNDICATE ORCHID APARTMENT,
ASTER BLOCK, 6TH FLOOR,
OPPOSITE MISSING KITCHEN,
HENGRABARI ROAD,
HENGRABARI, GUWAHATI- 781036,
PO AND P.S.- HENGRABARI,
DIST.- KAMRUP(M), ASSAM.

VERSUS

THE STATE OF ASSAM
REP. BY PP, ASSAM.

Advocate for the Petitioner : MR. S BORTHAKUR

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 20-03-2023

Heard Mr. S. Borthakur, learned counsel for the applicant. Also heard Ms. N. Das, learned Additional Public Prosecutor for the State respondent.

This is an application filed under Section 438 of the Code of Criminal Procedure 1973, praying for grant of pre-arrest bail to the accused/applicant in connection with Haflong P.S. Case No.16/2023, registered Under Section 120(B)/420/406/468/471 of the IPC.

Case Diary has been received and I have perused the same.

Mr. S. Borthakur, learned counsel for the applicant has submitted that the accused/applicant is no way connected in the alleged offence. The accused/applicant is an employee of "Norman Group" a proprietorship firm of the prime accused Narendra Nath Sinha located at Arunodoi Path, Guwahati, which deals with Event Management and he has been paid an amount of Rs.25,000/- as a monthly salary. It is also submitted that in the month of April, 2022, the prime accused told the accused/applicant that he was facing some taxation issue in his bank account, thereby, until, the said issue is resolved, he could not operate his account and thereby, requested the accused/applicant to provide his bank account for the purpose of receiving payment of money on his behalf. The accused/applicant was unaware of the fact that the prime accused had provided a fake purchase order in favour of the informant. He also states that he has nothing to do in the instant case as the entire case is based on the

documentary evidence and therefore, the custodial interrogation of the accused/applicant may not be necessary here in this case. Further, he is ready to co-operate the IO during the investigation of this instant case, if he is granted the privilege pre-arrest bail.

In this regard, Ms. N. Das, learned Additional Public Prosecutor has submitted that the Case Diary reveals sufficient incriminating materials against the present accused/applicant as well as the note of the IO states that the accused/applicant is the master mind behind the entire crime. She also submits that the accused/applicant along with co-accused used to supply fake order and on the basis of which they used to collect huge sum of amount, which they used to deposit in the account of the present accused/applicant along with some other involved person accounts.

Further, it is also submitted that during the investigation of this case, the IO found that the arrested accused named Narendra Nath Sinha with other co-accused and the present accused/applicant were doing this fraud since long time. The actual account holder is the present accused/applicant and he has received money from different purchasers of Assam. And also the present accused/applicant is operating the multiple bank accounts for doing fraudulent activities and the entire transaction is amounting to Rs.2.5 crores. Accordingly, the learned Additional Public prosecutor has raised objections on the prayer made by the accused/applicant.

After hearing the submission made by the learned Advocates of both sides as well as perusing the case diary and statement of the I.O., I find that custodial

interrogation of the accused/applicant is necessary to unearth some more facts of the case and accordingly, I am of the view that this is not a fit case, where, the privilege of pre-arrest bail can be granted to the accused/applicant at this stage and accordingly, the same stands rejected.

In view of above, this Anticipatory Bail application stands disposed of.

Case Diary be returned.

JUDGE

Comparing Assistant