

GAHC010057942023



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

Case No. : Bail Appln./1004/2023

BOZLUL BASIT SARKAR
S/O LATE MONSUR RAHMAN SARKAR
R/O HALUAPARA, WARD NO. 8,
P.O. AND P.S. LAKHIPUR
DIST. GOALPARA, ASSAM
PIN-78129

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. B C DAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

05.04.2023

Heard B. C. Das, learned Sr. counsel for the accused petitioner. Also heard Mr. R. J. Baruah, learned Addl. Public Prosecutor for the State/respondent.

By this petition under Section 439 Cr.P.C., the petitioner, namely, **Bozlul Basit Sarkar**, has prayed for grant of bail in connection with **ACB P.S. Case**

No. 09/2023 u/s 7(a) of the Prevention of Corruption Act, 1988.

The case diary, as called for, is placed before this Court.

Mr. B. C. Das, learned Sr. counsel for the accused petitioner, submits that the accused petitioner, who is a Block Elementary Education Officer (for short 'BEEO') has been languishing in judicial custody since 04.03.2023 on a false and concocted accusation. Mr. Das further submits that the learned Special Judge, Assam rejected his bail application on the ground of serious nature of the offence and that the investigation is in initial stage. Mr. Das, learned Sr. counsel also submits that in fact, the informant forcefully tried to give the accused Rs.1000/- as gift and left the amount on his table only and as such, perhaps, his further continuation of detention is not required for the purpose of investigation.

Per contra, R. J. Baruah, learned Additional Public Prosecutor, submits that the case diary reveals that the accused was caught red handed with chemical tainted money by a trapping laid team of the vigilance and Anti-Corruption ('ACB'), Assam in his office room. Mr. Boruah further submits that the accused demanded gratification for approval of loan documents with signature of the informant and the FSL reports on his voice sample and chemical analysis are yet to be received. Mr. Baruah, therefore, submits that the investigation being at its nascent stage, the liberty of bail if granted will certainly hamper the ongoing investigation.

The FIR reveals the allegation that on 01.03.2023 the informant went to the office of the accused petitioner for approval of a loan and also for obtaining signature on the loan documents and thereafter, the accused petitioner demanded bribe of Rs.1000/- from the informant and his conversation was recorded by the informant in his mobile phone.

It is noticed that the accused has been in judicial custody since 04.03.2023, i.e. for 32 days.

A perusal of the case diary, *interalia*, reveals that the accused while discharging his duty as a public servant defined in Section 2(C) of the P.C. Act by virtue of being the BEEO, Matia Block demanded and accepted pecuniary gratification of Rs.1000/- (rupees one thousand) with intention to perform his public duty stated above from the informant. The accused was caught red-handed with the chemical tainted gratification money and his telephonic conversation record recovered and seized, the F.S.L. reports on which are of course awaited. More material witnesses are yet to be examined under Section 161 Cr.P.C. The alleged offence appears to be a serious one involving public interest as the accused was involved in corruption in public office. Therefore, this Court is of the opinion that if the liberty of bail is granted to the accused the ongoing investigation by the A.C.B., Assam is likely to be adversely affected.

For the above stated reasons, the bail application of the accused petitioner stands rejected.

As the accused is in jail custody the I.O. is directed to expedite the investigation.

Return the case diary.

This disposes of the bail application.

JUDGE

Comparing Assistant