

GAHC010063592023



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

Case No. : AB/1053/2023

ABU MOTALEB SAIKIA
S/O- LATE GOLAM ALI SARKAR, R/O- VILL.- KHARUABANDHA, P.S.
SOUTH SALMARA, DIST. SOUTH SALMARA MANKACHAR, ASSAM, PIN-
783135.

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. K MOHAMMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

27.06.2023

Heard Mr. K. Mohammed, learned counsel for the petitioner. Also heard Mr. K.K. Das, learned Additional Public Prosecutor, appearing for the State of Assam.

This is an application under section 438 of the Code of Criminal Procedure,

1973 praying for pre-arrest bail of the petitioner, namely, Abu Motaleb Saikia apprehending his arrest in connection with South Salmara P.S. Case No. 153/2014 under section 420/406 of the Indian Penal Code.

The accusation in this case is that on 16.10.2014, the informant Ms. Anowara Khatun lodged an FIR before the Officer-in-Charge of Kharuabandha Police outpost against the present petitioner, *inter-alia*, alleging that the petitioner is the Manager of Nizora Thrift and Credit Cooperative Society Limited having its main office at Kharuabandha and the informant was an agent of the petitioner and was collecting money from different people and had deposited a sum of Rs. 1,70,000/- to the present petitioner.

It is alleged in the FIR that the present petitioner has refused to give back the said money and hence the FIR.

On receipt of the FIR South Salmara P.S. Case No. 153/2014 under section 420/406 of the Indian Penal Code was registered.

It appears from the record that by order dated 23.03.2023, the present petitioner was granted interim anticipatory bail with certain conditions.

It is submitted by the learned counsel for the petitioner in pursuant to the Court's order the petitioner has appeared before the Investigating Officer of the South Salmara P.S. Case No. 153/2014.

Learned counsel for the petitioner also submits that the matter is an old matter of the year 2014 and it is only in the year 2023 that the police came searching for him. He also submits that the disputes between the parties are in the realm of civil nature between the informant and the present petitioner. On the other hand, Mr. K.K. Das, learned Additional Public Prosecutor submits that the present petitioner has approached the Investigating Officer and his statement under section 161 Cr.P.C. has been recorded.

Mr. K.K. Das, learned Additional Public Prosecutor submits that there are incriminating materials against the present petitioner in the case diary.

I have considered the submissions made by learned counsel for both sides.

Considering, the fact that the present petitioner is co-operating with the investigation and is abiding by the conditions which were imposed along with the interim anticipatory bail order, the order of interim anticipatory bail granted to the petitioner by this Court on 23.03.2023 is hereby made absolute with the conditions which are already attached with the interim bail order.

With the above observation, this anticipatory bail application is disposed of.

JUDGE

Comparing Assistant