

GAHC010070072023



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

Case No. : Bail Appln./1193/2023

PRATIBHA REKHA DEKA
W/O UTPAL BORA R/O GANESH NAGAR P.S. CHANDMARI GUWAHATI
DIST. KAMRUP M ASSAM

VERSUS

THE STATE OF ASSAM
REP BY PP, ASSAM

Advocate for the Petitioner : MR. D BORA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

10.04.2023

Heard Mr. A. Choudhury, learned counsel for the accused petitioner as well as Mr. R.J. Baruah, learned Addl. Public Prosecutor, Assam for the State respondent.

By this petition under Section 439 Cr.P.C., the accused petitioner, namely

Pratibha Rekha Deka has prayed for grant of bail in connection **CID P.S. Case No.01/2023** under Sections **120B/109** of the IPC read with Sections **13(2)/13(1)(b)** of the Prevention of Corruption Act, 1988.

The case diary as called for is placed before the Court.

Mr. A. Choudhury, learned counsel for the accused petitioner, submits that the accused-woman has been in judicial custody for 39 days despite being innocent. Mr. Choudhury further submits that she has undergone interrogation in police custody for 10 days and as such, her further continuation of detention is not required for the purpose of investigation. It has been submitted that the accused is the wife of the prime accused Utpal Borah and she had no knowledge that her husband credited any amount to her bank accounts. Therefore, her case being related to suspected abatement only, she may be directed to be released on bail.

Per contra, Mr. R.J. Baruah, learned Addl. Public Prosecutor, submits that the case diary reveals that the accused petitioner maintained bank accounts in different banks with intermittent huge deposits of money without her any known source for such income. Mr. Baruah further submits that the accused undertook foreign trips incurring heavy expenditures and reportedly has not been co-operating with the investigating officer. Therefore, Mr. Baruah vehemently opposes grant of liberty of bail to the accused petitioner at the present incomplete stage of investigation.

The F.I.R., dated 09.01.2023, reveals the allegation that in connection with CID P.S. Case No.20/2022 searches were conducted at the houses of the husband of the petitioner, namely Utpal Bora, S.I. of Police at different locations. During investigation, it has come to light that said Utpal Borah had purchased

several assets in different places in the last few years, the value of which is way beyond his known sources of income. As per allegation, Utpal Bora has acquired both movable and immovable properties worth Rs.1.25 crores (approx.) and has a bank balance of several lakhs of rupees which exceeds his income. Allegation is also to the effect that S.I. Utpal Bora purchased a housing plot worth Rs.48 lakhs in March, 2022 in the name of the present accused petitioner.

It is noticed that the accused-lady has been in judicial custody for last 39 days since 03.03.2023.

A perusal of the case diary reveals, *inter-alia*, that the accused is by profession a housewife, without any known source of income and her husband Utpal Borah has been arrested in connection with the case. It is also revealed that the accused petitioner avoided appearance before the investigating officer, despite service of notice under Section 41A Cr.P.C. and remained untraced for quite sometime.

On a detailed scrutiny of the case diary, it is further revealed that the accused prima facie committed the offence of owning landed property by herself and conspired along with her husband to own such valuable landed properties as well as maintained a number of bank accounts with evidence of abnormally high amount of money being credited/transferred to those bank accounts without satisfactory explanation as regards such source of income. The accused has stood even as a witness to purchase of a valuable plot of land at Dudhnoi, Goalpara by her husband in the land purchase deed etc.

The case diary also reveals prima facie abundance of incriminating evidence of abatement of commission of offences amassing disproportionate assets, movable and immovable, by her husband Utpal Borah, who is a police officer

(public servant) besides her commission of a number of suspected illegal transactions and crucial aspects of investigation into such allegations are yet to be completed. Therefore, this Court is of the opinion that if the liberty of bail is granted to the accused petitioner at the present stage, the ongoing investigation under the P.C. Act, which is a Special Act, is likely to be adversely affected.

Accordingly, the bail application of the accused petitioner stands **rejected**.

As the accused petitioner is in judicial custody, the investigating officer is directed to expedite investigation.

Return the case diary.

This disposes of the bail application.

JUDGE

Comparing Assistant