

GAHC010082882023



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

Case No. : AB/1418/2023

KULENDRA TALUKDAR
S/O LATE DEBIRAM TALUKDAR,
R/O HOUSE NO. 1A RAMA MIKIR PATH UPPER HENGERABARI,
P.S.- DISPUR,
DIST.- KAMRUP (METRO), ASSAM, PIN- 781036.

VERSUS

STATE OF ASSAM
REP. BY THE P.P.

Advocate for the Petitioner : MR. K M HALOI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 29.05.2023

Heard Mr. K. M. Haloi, learned counsel appearing for the petitioner. Also heard Mr. B. Sarma, learned Additional Public Prosecutor appearing for the State of Assam.

2. This Anticipatory bail petition has been filed by the petitioner, namely, Sri Kulendra Talukdar is apprehending arrest in connection with C.I.D Police Station Case No. 17/2019, registered under Sections 120B/420/468/471/406/409 of IPC.

3. Learned counsel for the petitioner submits that by a communication dated 17.05.2019 issued by the Assistant Branch Manager, Head Office, Assam Seeds Corporation Ltd., a compliant was lodged before the Criminal Investigation Department, Assam in respect of a fraud committed by the proprietor, one Mr. Ajay Kumar More of M/S Dnahraj Mahendra Kumar in reference to Bid reference No. T-10(F)/2016-17 dated 31.08.2016. The complaint was lodged as the same was authorized by the present petitioner in respect of fraud/forgery committed by the said agency. It was alleged that an amount of Rs. 53,18,000/- (Rupees fifty three lakhs eighteen thousand) only was released in favour of the said supplier namely, M/S Dnahraj Mahendra Kumar.

4. Pursuant to the said complaint lodged, the C.I.D Police Station Case No. 17/2019, registered a case under Sections 120B/420/468/471/406/409 of IPC

5. Apprehending arrest the present bail application is filed. This Court by earlier order dated 20.04.2023 while calling for case dairy had granted interim bail to the petitioner.

6. The case dairy called for has been produced by Mr. B.

Sarma, learned Additional Public Prosecutor, Assam. The case dairy produced has been carefully perused.

7. It is seen from the case dairy that the investigation has progressed and the statements of the witnesses have also been recorded.

8. There is a bail objection raised by the Investigating Officer stating that custodial interrogation is necessary. Upon due perusal of the case dairy received, it is seen that the petitioner was the Managing Director at the relevant point in time. The primary allegation is that the cheque amount was released to the supplier without following the procedures prescribed. However, at the stage of investigation no materials are found which incriminate the petitioner as being responsible for causing deliberate loss by releasing the amount to the supplier.

9. From the case dairy, it is also seen that the forgery alleged to be committed by the supplier was initially raised by one, Sri Joydeb Das. It was alleged that huge amount of money was defalcated by production of forged documents by the supplier. It was alleged that the supplier submitted a false forged Seed Analysis Report. The learned counsel for the petitioner submits that the petitioner is a Managing Director and there are technical persons in the corporation, who had approved the release of payment on the basis of the Seeds Analysis Report, which was verified by the concerned competent officers of the organization and it was only after such verification that the petitioner has sanctioned the release of the fund as was

required to be done by following the codal formalities.

10. Learned counsel for the petitioner further referring to the complainant dated 17.05.2019 that it was at the instance of the petitioner that the first complaint was lodged by the Seed Corporation before the Criminal Investigation Department, Assam.

11. It is also seen that the petitioner has in the meantime, retired from service since 30.06.2020. He is no longer in the said office. Having perused the case dairy and upon consideration of the submissions made by the learned counsels for the parties, this Court is of the view that the petitioner has complied with the directions of this Court contained in the order dated 20.04.2023 while granting interim bail.

12. Upon perusal of the case dairy it is seen that no incriminating materials are seen in so far as the petitioner is concerned, which suggest that grant /continuation of the interim bail ought not to be permitted. No materials are also seen from the case dairy which suggest that grant of anticipatory bail to the petitioners as prayed for at this stage of investigation will hamper the investigation carried on. The investigations are still under way and charge-sheet has been not filed on date. No materials are seen from the case diary to suggest that pursuant to grant of interim bail, the petitioner did not abide by the conditions mentioned in the said order or that the continuation of the interim bail granted will be cause any impediment with the investigation that is carried on.

13. Upon due consideration of the materials available before this Court, this Court is of the view that the interim bail granted vide order dated 20.04.2023 can be made absolute. The interim bail granted earlier is therefore made absolute on the same conditions mentioned in the said order.

14. The objections raised by the learned Addl. P.P is overlooked.

15. Accordingly, bail petition is allowed and disposed of.

16. Return the case diary.

JUDGE

Comparing Assistant