

GAHC010088422023



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

Case No. : AB/1497/2023

GIRIN KAKATI
S/O LATE DAYARAM KAKATI, R/O VILL-NIZ MADARTOLA, P.O.-BAIHAT
CHARIALI, P.S.-KAMALPUR, DIST-KAMRUP, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. A GOGOI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

19.05.2023

Heard Mr. A. Gogoi, learned counsel for the petitioner. Also heard Mr. R.J. Baruah, learned Addl. Public Prosecutor, Assam appearing for the State respondent.

This petition under Section 438 Cr.P.C., is filed for granting the privilege of

pre-arrest bail to the petitioner, namely **Girin Kakati**, apprehending arrest in connection with **ACB P.S. Case No.23/2023** registered u/s **120B** of the IPC read with Section **7(a)** of the Prevention of Corruption Act, 1988.

The Case diary, as called for, is placed before the Court.

It may be mentioned that by order, dated 28.04.2023, this Court granted the privilege of interim pre-arrest bail to the petitioner subject to conditions.

Mr. A. Gogoi, learned counsel for the petitioner, submits that in terms of the conditions of the interim pre-arrest bail order, dated 28.04.2023, the petitioner has appeared before the investigating officer and has been co-operating in investigation. Therefore, Mr. Gogoi submits that the petitioner's custodial interrogation in connection with the case may, perhaps be not required.

Mr. R.J. Baruah, learned Addl. Public Prosecutor, submits that the petitioner is co-operating with the investigating officer and there is no adverse report against him from the investigating officer.

The allegation is that the present petitioner along with one Lot Mandal of the office of the Circle Officer Kamalpur Revenue Circle demanded bribe amounting to Rs.5,000/- for issuing sale permission of a plot of land.

It is noticed that by order, dated 28.04.2023, one co-ordinate bench granted the privilege of interim pre-arrest bail to the petitioner. The aforesaid order reads as under (operative portion)-

“28.04.2023

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

By this application under Section 438 Cr.P.C., the petitioner, namely, Girin Kakati is

seeking pre-arrest bail in connection with ACB Police Station Case No. 23/2023 under Section 120 (B) IPC read with Section 7 (a) of Prevention of Corruption Act, 1988.

In view of the allegation, this Court is inclined to call for the case diary fixing

19.05.2023.

Considering the fact that the petitioner is not prime accused rather one Smt. Gitanjali Deka, who is the Lat Mandal of the area has demanded the money from the informant, this court is of the opinion that the accused has been able to make out a case for grant of interim protection.

Accordingly, in the interim, it is provided that, in the event of arrest of the petitioner above named, in connection with the case aforementioned, he shall be released on bail on furnishing bail bond of Rs.10,000/- with a suitable surety of the like amount, to the satisfaction of arresting authority. The pre-arrest bail is granted on the following conditions:

(1) The petitioner shall not leave the territorial jurisdiction of the aforesaid police station, without prior written permission from its officer-in-charge,

(2) The petitioner shall not hamper with the investigation, or tamper with the evidence of the case,

(3) The petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer,

(4) The petitioner shall appear before the ACB Police Station within 10(ten) days from today and record his statement,

(5) The petitioner shall continue to appear before the Investigating Officer of the above mentioned case after every 10(ten) days from the date of first appearance till such time the attendance is dispensed with by the said investigating officer.”

Accordingly, the petitioner has appeared before the investigating officer and has been co-operating in investigation into the case. The petitioner appeared before him on 18.04.2023 and 29.04.2023.

The case diary shows that investigation has substantially progressed so far the petitioner's role is concerned. The custodial interrogation of the petitioner is found unwarranted.

Therefore, the interim pre-arrest bail granted vide order, dated 28.04.2023 is

hereby made absolute, subject to the following conditions-

- (i) That the petitioner shall co-operate in investigation as and when required;
- (ii) That the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer; and
- (iii) That the petitioner shall not hamper or tamper with the investigation in any manner.

Breach of any of the above conditions shall render cancellation of the bail in accordance with law.

Return the case diary.

This disposes of the anticipatory bail application.

JUDGE

Comparing Assistant