

GAHC010090072023



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

Case No. : AB/1508/2023

ABU FAYAZE SHAB UDDIN
S/O LT. ABDUL LATIF R/O VILL. CHENGJUR P.O. AND P.S. PATHERKANDI
DIST. KARIMGANJ ASSAM PIN 788724

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. P D NAIR

Advocate for the Respondent : PP, ASSAM

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

13/06/2023

Heard Mr. G Alam, learned counsel for the petitioner and Mr. M P Goswami, learned Additional Public Prosecutor, Assam for the State.

The petitioner, namely, **Abu Fayaze Shab Uddin**, has filed this application under Section 438 Cr.P.C. seeking pre-arrest bail apprehending his arrest in **Geetanagar P.S. Case No. 57/2023** registered under Sections 379/403/468 IPC corresponding to G.R. No. 1867/2023.

Perused the case diary placed before the Court today by Mr. M P Goswami, learned Additional Public Prosecutor, Assam.

The complainant of the case filed a complaint case before the learned Chief Judicial Magistrate, Kamrup (M), Guwahati on 13.02.2023 being C.R. Case No. 61^C/2023 alleging that the petitioner had stolen two of his cheques bearing Nos. 231977 & 241988 of Account No. 38293312901 and he came to know about the same when the accused petitioner deposited those cheques in the bank and as those were bounced for which the accused petitioner through his Lawyer served a notice on him. In the said complaint, the complainant alleged that the petitioner tried to withdraw Rs.25,00,000/- from the account of the complainant by those two cheques that was stolen by the petitioner. The learned Magistrate on 13.02.2022 forwarded the said complaint to the Geetanagar Police Station for investigation and submission of the report.

Accordingly, Geetanagar P.S. Case No. 57/2023 under Sections 379/403/468 IPC corresponding to G.R. No. 1867/2023 was registered against the petitioner on the basis of said complaint.

Mr. Goswami, learned Additional Public Prosecutor, Assam from the case diary submitted that the complainant of the case carried out various contract works through sub-contractors and issues cheques to them and later used to file such complaint against those sub-contractors when they files any proceeding against him under the Negotiable Instrument Act for bouncing of his cheques given by him to those sub contractors.

Mr. Goswami, learned Additional Public Prosecutor, Assam from the case diary submitted that same is the case of the present petitioner as per the report of the concerned Investigating Officer and that the petitioner has filed a case against the complainant under the Negotiable Instrument Act for bouncing of cheques that was given to him by the complainant.

Considering the materials available in the case dairy, the Court is of the view that custodial interrogation of the petitioner, named above, is not warranted to investigate the said Geetanagar P.S. Case No. 57/2023. As such, this pre-arrest bail application of the petitioner in said Geetanagar P.S. Case is accepted.

The petitioner, namely, Abu Fayaze Shab Uddin is already on interim bail in said Geetanagar P.S. Case No. 57/2023 granted to him earlier by this Court on 28.04.2023 and the same is hereby

made absolute on the terms and conditions that the petitioner shall - **(i)** appear before the concerned Investigating Officer of said Geetanagar P.S. Case No. 57/2023 as and when he is required for necessary investigation of the case; **(ii)** not leave the territorial jurisdiction of said Geetanagar Police Station, without obtaining prior written permission from the concerned I/O of the case; **(iii)** not hamper with the investigation, or tamper with the evidence of the case and **(iv)** 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.

Any violation of any of the aforesaid terms and conditions by the petitioner, named above, pre-arrest bail granted to him in said Geetanagar P.S. Case No. 57/2023 shall stand automatically vacated.

Return the case diary.

Accordingly, this pre-arrest bail application stands allowed to the extent above.

JUDGE

Comparing Assistant