

GAHC010120722023



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

Case No. : AB/2102/2023

SUDIP SARKAR
S/O- ASHU RANJAN SARKAR, R/O- SRI PALLY VIDYA MANDIR, UTTAR
KRISHNAPUR PART-II, P.S. SILCHAR, DIST.- CACHAR, PIN- 788006, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY P.P., ASSAM

Advocate for the Petitioner : MR. S C BISWAS
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 24-07-2023

1. Heard Mr. I. Ikbali, learned counsel for the petitioner.
2. By this application under Section 438 of Cr.P.C. the petitioner, namely Sudip Sarkar has approached this Court seeking the benefit of pre-arrest bail, apprehending his arrest in connection with Karimganj P.S. Case No. 756/2022 u/s 120(B)/409/420 IPC.

3. Earlier the prayer for bail made by the petitioner was rejected vide order dated 15.2.2023 in connection with the case being AB /3838/2022. The petitioner has approached this court with a new ground for bail. It is submitted that the petitioner is suffering from heart ailment and he was advised by the Doctor to go for treatment outside Assam. Seen the Annexure-8, the medical documents in support of the petitioner's prayer that he has been suffering from heart ailment.

4. Heard Mr. R.R. Kaushik, learned Addl. P.P., Assam who has raised serious objection stating that medical documents reflects advice to the petitioner for ECG and Cardiograph.

5. I have also perused the case diary.

6. It is submitted that there are incriminating materials against the petitioner in the case diary. The statement of the witnesses u/s 161 Cr.P.C. also implicates the petitioner.

7. The FIR reflects that the petitioner has allegedly diverted funds to some other contractors who does not work under the Government Scheme and the contractors who provided work under the government scheme were deprived of the funds released for the contract work under the Lowaripowa Development Block. It is also further alleged that the petitioner who was given work under those government scheme as mentioned in the FIR has not executed the scheme proportionate to the funds released against those scheme. The petitioner has admitted that he has withdrawn the funds and has paid the same to different vendors who were associated with him. It is also alleged that the petitioner created a vendor account in his wife's name and most of the, time he used to purchase goods from that vendor and so on and so forth. In this

manner the petitioner has misappropriated Rs. 53.124 lakh from the bank account.

8. The learned counsel for the petitioner has submitted that investigation has progressed and petitioner's custodial detention is no longer required for investigation as the investigation has commenced since the month of March, 2022. These are matters of documentary evidence and the petitioner will cooperate with the investigation.

9. I have considered the submissions at the bar with circumspection. The earlier bail prayer of the petitioner was rejected. The medical documents submitted on behalf of the petitioner are not certificates but reflects advice by the doctor for certain tests. The offence alleged is of serious nature.

10. Considering all aspects, and in view of foregoing discussions, the prayer for anticipatory bail of the petitioner is rejected at this stage.

11. Send back the case diary.

JUDGE

Comparing Assistant