

GAHC010127612023



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

Case No. : Bail Appln./2040/2023

GANESH BARMAN
S/O LT. KESHAB CH BARMAN R/O VILL. CHAMATA P.O. PACHIM CHAMATA
P.S BELSOR DIST. NALBARI ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A CHAUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

30/06/2023

Heard Mr. B K Mahajan, learned counsel for the petitioner and Mr. D Das, learned Additional Public Prosecutor, Assam for the State.

This application under Section 439 Cr.P.C. has been filed by the petitioner, namely, **Sri Ganesh Barman**, seeking bail in connection with **ACB P.S. Case No. 40/2023** registered under Sections 7(a) of the Prevention of Corruption Act, 1988, wherein he was arrested on 29.05.2023 and since then he is in custody.

As per the FIR of the case, the father-in-law of the complainant was an accused in Gubardhana P.S. Case No. 83/2023 as police during a raid seized few bags of fertilizers illegally kept in his house. Though, police was trying to apprehend the father-in-law of the complainant, he evaded arrest. Later, father-in-law of the complainant filed a pre-arrest bail application before the Court in which the Court asked for the relevant case diary.

In the said Gubardhana P.S. Case No. 83/2023, mother-in-law of the complainant was also arrested and she was in custody.

The complainant submitted an application before the Anti Corruption Bureau at Guwahati stating that to submit the case diary before the Court, the petitioner, i.e., the Officer-in-Charge of Gubardhana Police Station asked for an amount of Rs.5,00,000/- for production of the same before the Court and since the said amount could not be provided to the petitioner, the relevant case diary was not sent. Later, the Court released the mother-in-law of the complainant and in the FIR before ACB, it was alleged that the petitioner started harassing the father-in-law of the complainant for causing his arrest and because of such pressure of the petitioner, his father-in-law committed suicide. Later, the complainant after informing the Anti Corruption Bureau decided to give him certain amount of money so as to remove the name of his mother-in-law from the charge-sheet in the said Gobardhana P.S. case and accordingly, in a pre-trapped operation while the complainant handed over a part of the demanded bribe amount of Rs.40,000/- out of the actual demand of Rs.3,00,000/-, the petitioner was caught red handed.

The FSL report placed before the Court reveals that the concerned Chemical Analysis, i.e., the powdery substance was with notes of Rs.40,000/- gave positive test for sodium iron, carbonate iron and water and positive test for phenolphthalein.

Mr. Das, learned Additional Public Prosecutor, Assam submitted that the report regarding voice recording of the petitioner is yet to be received.

It is to be noted herein that the petitioner was the Officer-in-Charge of Gubardhana Police Station and he was caught red handed while taking bribe from the complainant to remove the name of the mother-in-law of the complainant from the charge-sheet of Gubardhana P.S. Case No. 83/2023.

Considering the materials available in the case diary against the petitioner with regard to his involvement in the alleged crime, the Court is of the view that it is not a fit case to grant bail to the

petitioner, namely, **Sri Ganesh Barman**, in said **ACB P.S. Case No. 40/2023** even considering his detention in custody since 29.05.2023.

Accordingly, this bail application of the petitioner, Sri Ganesh Barman, in said ACB P.S. Case No. 40/2023 stands rejected.

Return the FSL report placed before the Court.

JUDGE

Comparing Assistant