

GAHC010128172023



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

Case No. : Bail Appln./2045/2023

RAKIBUL KHAN
S/O- MUSHARAF HUSSAIN KHAN, R/O- NAGABANDHA, P.S. LAHARIGHAT,
DIST.- MORIGAON, ASSAM

VERSUS

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

Advocate for the Petitioner : MR H R A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 13-06-2023

1. Heard Mr. HRA Choudhury, learned senior counsel for the petitioner. Also heard Mr. RJ Baruah, learned Additional Public Prosecutor, Assam.
2. This bail application is filed under Section 439 Cr.PC by the petitioner, namely, ***Rakibul Khan***, who was arrested in connection with Belowguri P.S. Case No. 29/2023 under Sections 120(B)/420/409/468/34 of the IPC.

3. It is submitted that the petitioner was arrested on 13.05.2023 and since then he has been in custody.
4. The petitioner was appointed as a Gaon Panchayat Coordinator (GPC). During the relevant point of time, the petitioner was posted at Tulshibori Gaon Panchayat where he was posted upto 22.09.2021 and thereafter, subsequently he was transferred to Amaraguri Gaon Panchayat.
5. The learned senior counsel for the petitioner has submitted that an FIR was lodged by the informant making allegations of release of funds in respect of some persons under the Government Awas Scheme. It is alleged that certain job cards, id numbers were created in the names of different persons through which the accused persons withdrew money and embezzled Government funds. Though the petitioner is not named in the FIR yet his name has been shown in the forwarding report at Sl. No. 6 as Md. Rakibul Khan.
6. It is submitted by the learned senior counsel for the petitioner that though the petitioner is not connected with the offences alleged but he was arrested and since then he has been in custody.
7. The learned senior counsel for the petitioner submits that other persons arrested in connection with the same case have been released on bail. He has referred to the order dated 09.06.2023, passed in Bail Application No. 1977/2023 and Bail Application No. 1883/2023, whereby co-accused have been sentenced by this Court.
8. The learned Additional Public Prosecutor submits that the case diary is available as it was called for in respect of some other case.
9. Upon due perusal of the case dairy, it is seen that the matter is under investigation and charge-sheet has not been filed. Perusal of the case diary does

not reveal any incriminating materials against the petitioner at the stage of the investigation. His statements have been recorded. Necessary documents are stated to be available with the Investigating Officer.

10. Considering the extent of investigations being carried on and the period of detention undergone, this Court is of the view that although the charge-sheet has not been filed, further custodial detention of the petitioner is not required. No materials are also seen to suggest that release of the petitioner on bail at the stage will hamper the investigation.

11. Upon hearing the learned counsels for the parties, this Court is of the view that considering all of the above and also in view of the fact that other similarly situated persons have been released on bail in connection with the same case and parity ought to be maintained, the prayer for bail be granted.

12. Accordingly, the petitioner is directed to be released on bail forthwith subject to executing a bail bond of Rs.30,000/- (Rupees thirty thousand) only with one local surety of like amount to the satisfaction of the Chief Judicial Magistrate, Morigaon. The bail, granted is however, subject to the following conditions:-

i) The petitioner shall continue to appear before the police and cooperate with the Investigating Officer as and when required, till completion of investigation;

ii) The petitioner shall not change his residence or place of business, without prior written permission from the Court of Chief Judicial Magistrate, Morigaon;

iii) That the petitioner shall not hamper or tamper with the investigation in any manner; and

iv) That the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person/witness acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer in connection to this Police Station Case.

13. If any of the conditions are found to be violated by the petitioners then the Investigating Officer shall be at liberty to seek cancellation of the bail granted to the accused.

14. With the above direction, the bail petition is accordingly allowed and disposed of. Return the Case Dairy.

JUDGE

Comparing Assistant