

GAHC010134122023



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

Case No. : AB/2179/2023

LUIT BORA
S/O MR. LAKSHMI BORA
R/O HOUSE NO. 9, AYODHYA PATH JANAKPUR, DPI,
KAHILIPARA, GUWAHATI, DIST. KAMRUP (M), ASSAM- 781019

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. R B GOHAIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

30.06.2023

Heard Mr. P. Mahanta, learned counsel for the petitioner. Also heard Ms. S.H. Bora, learned Additional Public Prosecutor, appearing for the State of Assam.

This is an application under section 438 of the Code of Criminal Procedure,

1973 praying for pre-arrest bail of the petitioner, namely, Mr. Luit Bora in connection with B.I. (E.O.) P.S. Case No. 24/2022 under section 120(B)/420 and 406 of the Indian Penal Code.

The accusation in this case is that on 20.09.2022, one Utpal Bhattacharjee, Inspector of Police, Bureau of Investigation (E.O), Assam has lodged an FIR before the Officer-in-Charge of B.I. (E.O.) Police Station, *inter-alia*, alleging that a preliminary enquiry was conducted on 21.12.2012, wherein it came to the notice that the petitioner was maintaining a salary account no. 9110110062239767 with AXIS Bank Ltd. Zoo Road, Guwahati and no salary was credited to the said account and only low value inter branch cash deposits were made.

It was also alleged that said account was suspected to be involved in a lottery scam. On receipt of the said FIR B.I. (E.O.) P.S. Case No. 24/2022 was registered.

Learned counsel for the petitioner submits that he was earlier working as a Telecaller in HMSC, Infotech at Guwahati and at that time the said company had opened the salary account.

It is also submitted that the petitioner later on left that job and no salary was credited to the said account. Thereafter, on 22.01.2023, he applied for the closure of said account to the Bank Manager of the AXIS Bank. The petitioner has also submitted that the petitioner has received a notice under section 41A Code of Criminal Procedure on 09.06.2023, from the Inspector of Police, BI (EO) Assam for appearing before the Investigating Officer on 14.06.2023 and it was mentioned that in the event of failure to comply with the notice, the petitioner may also be arrested.

Learned counsel for the petitioner has submitted that earlier he appeared

before the BI (EO) in connection with the said case. However, on receipt of the notice from the Inspector of Police, he apprehended that he may be arrested. Hence he defaulted on two occasions, now he is apprehending that if he appears now, he may be arrested.

I have also heard learned Additional Public Prosecutor, who submits that from the record it appears that the petitioner defaulted in appearing before the Inspector BI (EO) on two occasions.

I have considered the submissions of learned counsel for both sides and perused the materials on record.

Considering the fact that the incident relates to opening of a bank account by the present petitioner about 11 years ago, also considering the circumstances under which the said salary account was opened and the fact that the petitioner had already applied for closure of the said account, he is directed to appeared before the Investigating Officer of B.I. (E.O.) P.S. Case No. 24/2022 within ten(10) days from the date of this order and shall co-operate with the Investigating Officer of the said case. If he does so within the stipulated time, in the event of his arrest in connection with B.I. (E.O.) P.S. Case No. 24/2022, he shall be allowed to go on bail, on furnishing a bail bond of Rs. 20,000/- with a suitable surety of like amount to the satisfaction of the arresting authority.

With the above observation, this anticipatory bail application is hereby disposed of.

JUDGE

Comparing Assistant