

GAHC010140712023



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

Case No. : AB/2318/2023

MANOJ GOYAL
S/O- LATE VIJAY KUMAR GOYAL,
R/O- FLAT NO0 G 2, MEGHA RESIDENCY, GARI KUCHI PATH, BELTOLA
TINIALI,
P.S- BASISTHA,
DIST- KAMRUP (M),
GUWAHATI-28, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. V N UPADHYAY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

20.07.2023

Heard Ms. P. Mishra, learned counsel appearing for the petitioner. Also heard Mr. B.B. Gogoi, learned Addl. Public Prosecutor, Assam appearing for the State

respondent.

This petition under Section 438 Cr.P.C., is filed for granting the privilege of pre-arrest bail to the petitioner, namely **Manoj Goyal** apprehending arrest in connection with **BI(EO) P.S. Case No.4/2023** under Sections **120B/468/471/420** of the IPC.

The Case diary, as called for, is placed before the Court.

Ms. P. Mishra, learned counsel appearing for the petitioner, submits that the arrested accused Dulu Deb is the Proprietor of M/s Purbanchal Minerals, where the petitioner is an employee and as such, the petitioner had no access to commit the alleged offences. Therefore, Ms. Mishra submits that the petitioner is ready to cooperate with the investigating officer if the privilege of pre-arrest bail is granted to him.

Per contra, Mr. B.B. Gogoi, learned Public Prosecutor, submits that the case diary reveals that the petitioner is the *de facto* Proprietor of M/s Purbanchal Minerals and has been running illegal coal trade using fake/forged GST invoices, e-way bills causing loss of approximately Rs.62,01,655/- on account of GST to the governments in connivance with other coal dealers/firms. Mr. Gogoi further submits that various relevant documents are yet to be seized in connection with the case and as such, the privilege of pre-arrest bail, if granted will certainly adversely hamper the ongoing investigation into the case.

The F.I.R. was lodged by one Bipul Medhi, Assistant Commissioner of State Tax, Guwahati, Unit-D against one Dulu Deb, the proprietor of M/S Purbanchal Minerals bearing GST registration No.18AJDPD8578L1ZN for having purportedly committed the offence of wrongful claim of tax credit and fake bill trading. It has been alleged that Sri Dulu Deb obtained a registration in the name of M/S

Purbanchal Minerals on 07.08.2017 under the provisions of Assam GST Act, 2017. During the course of investigation of the business behaviour of M/S Purbanchal Minerals, the department could unearth that Dulu Deb, under the veil of making supply of coal, had been passing fake tax credit to different coal traders by creating fictitious supply of chain through generation of fake invoices. It is also alleged that although Sri Dulu Deb has claimed of selling coal for an amount of Rs.37,96,37,381.79/- having tax involvement of Rs.1,89,81,869.08/- to different coal suppliers of Assam, in actuality there are no records of movement of goods (lorry slip, weighbridge slip, bank transaction details etc.) that could be proved by the taxpayer during investigation. It is further alleged that on verification of purchase records of the tax payer from records of GSTR-2A, it is found that Sri Dulu Deb has purchased coal of Rs.27,43,33,689/-, but the taxpayer could not submit a single lorry slip, weighbridge slip or any document which could prove the movement of huge amount of coal, mostly from Jharkhand and Uttar Pradesh to Assam. During the course of investigation it is found that among all the suppliers of coal from Uttar Pradesh and Jharkhand, 8(eight) numbers of Tax payers were cancelled on suo moto basis by the respective State Government/Central Authority which apparently raise questions on the legitimacy of the ITC claimed thereof. The informant further alleged that during the course of investigation Sri Dulu Deb admitted that he was working with the present petitioner and later, the petitioner persuaded Sri Dulu Deb to start coal business under the business entity of M/S Purbanchal Minerals. Sri Dulu Deb also confirmed that he was financed by the petitioner and in support of such claim made by the taxpayer, good amount of monetary transactions was also found between the bank accounts of Sri Dulu Deb and the present petitioner. It is also alleged that the plot of land where Sri Dulu Deb

conducted business, measured 3000 sq. feet which clearly suggests that there was lack of facility/space to handle such huge quantity/volume of goods.

A perusal of the case diary reveals prima facie evidence that the petitioner is, in fact, running M/s Purbanchal Minerals obtaining its GST registration in the name of the arrested accused Dulu Deb. It is further revealed that the petitioner purchased coal from seven number of coal traders/firms to the tune of Rs.14,24,54,417/- (including GST+ cess) through fake/ forged tax invoices, e-way bills and thus, evaded a total approximate GST amount of Rs.62,01,655/-. There is prima facie evidence to show that the petitioner has concealed all the relevant documents/registers etc. pertaining to coal business transactions of M/s Purbanchal Minerals and evidence of his illegal digital transfer of money through different bank accounts has surfaced during investigation. These findings are, of course, subject to the final outcome in investigation, which is yet to be completed.

Therefore, this Court is of the opinion that if the privilege of pre-arrest bail is granted to the petitioner, the investigation into the case is most likely to be adversely affected.

Accordingly, the pre-arrest bail application of the petitioner stands **rejected**.

Send back the case diary.

This disposes of the anticipatory bail application.

JUDGE

Comparing Assistant