

GAHC010145122023



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

Case No. : AB/2313/2023

DR. GEETARTHA DARSHAN BARUA
S/O DR HEMA KANTA BARUA
R/O FLAT NO. 503,
TOWER E-3, CLEO COUNTRY
APARTMENTS, SECTOR 12,
NOIDA-201301, UTTAR PRADESH, PRESENTLY RESIDING AT OPPOSITE
HOUSE NO. 2, JILMIL PATH,
BELTOLA, SURVEY, GUWAHATI- 781028

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. B P BORAH

Advocate for the Respondent : PP, ASSAM

BEFORE

HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

18.10.2023

Heard Mr P K Goswami, learned Senior Counsel for the petitioner, assisted by Mr B P Borah, learned counsel. Also heard Mr M Phukan, learned Additional Public Prosecutor for the State of Assam.

2. The petitioner, Dr Geetarth Darshan Barua, has filed this application under Section 438 CrPC, with a prayer for anticipatory bail, apprehending his arrest in connection with Vigilance Case No. 02 of 2022, under Sections 12(B)/420/468/471 IPC, read with Sections 7(b) and 7(c) of the Prevention of Corruption Act, 1988.

3. The FIR unfolds that on 09.07.2021, anomalies were detected, which reveal that the erstwhile CHD, Kokrajhar, Sri Ajit Sarkar submitted fabricated proposals by forging documents for 44 Schemes under Special Central Assistance to Tribal Sub-Plan and Grants under Article 275 (1) of the Constitution of India for the period 2015-2016 and 2016-2017 in the BTC areas. These 44 schemes had no existence as per website of the Ministry of Tribal Affairs, Government of India, New Delhi, neither any sanction was recorded for those schemes, but Ajit Sarkar observing all formalities issued work orders to several contractors, who carried out work and generated liabilities of Rs. 68.635 crores. Apparently, no funds were released for the work completed in relation to the fake schemes.

4. A high level inquiry was held on the complaint initiated by the Secretary of BTC and it was unearthed that the Executive Engineer, Kokrajhar Division, Sri Amarjyoti Deka submitted proposals against 39 schemes for the years 2015-2016 and 2016-17 to the Council Head of Department of Irrigation of BTC, which originated from Bijni Sub-Division, at Kokrajhar. The Executive Engineer, Tamulpur also submitted proposals for four schemes for the year 2016-2017 and the Executive Engineer, Irrigation at Tongla Division, submitted proposal for one such scheme for the year 2016-2017 originating from the Tongla Sub-Division. Ajit Sarkar, thereafter, scrutinized the schemes and submitted to the Secretary of Irrigation of BTC for onward submission to the Ministry of Tribal Affairs, Government of India. It was also unearthed that the schemes were shown as

sanctioned and, thereafter, estimates were submitted. Administrative approval of 24 such schemes were sent directly to the Executive Engineers and the administrative approval were accorded by Sri Arun Kumar Basumatary, Sri Dinesh Boro and Sri Arun Chandra Deori.

5. It was also announced that Ajit Sarkar issued technical sanctions against 22 schemes, out of 24 such schemes against the AA. He also floated tender and prepared comparative statements of the bidders. On getting work orders, the contractors proceeded with the execution of the allotted work against 13 schemes and created financial liabilities for an amount of Rs. 58,65,75, 630/-.

6. Later, as per the report, the fund release orders have been examined and was found to be counterfeit, fake and forged. It was also unearthed that no such file numbers existed in the Ministry as mentioned on the purported sanctioned letters and no such project was sanctioned by the Ministry of Tribal Affairs to the BTC under Special Central Assistance to Tribal Sub Plan (SCA to TSP) and Grants under Article 275 (1) of the Constitution of India during the period 2015- 2016. The enquiry revealed that Ajit Sarkar submitted detailed estimate estimate of the schemes to BTC for according administrative approval along with Photostat/ printed copies of the sanctioned orders without verifying its genuineness. It is alleged that he hatched up a criminal conspiracy with Sri Biswajit Sharma and the present petitioner Sri Gitartha Darshan Baruah and managed and prepared fake sanction Orders with malafide and used the fake sanctioned orders as genuine. Although Gitartha Darshan Baruah was an outsider, he was engaged by Sri Biswajit Sarma in such nefarious activities. The learned counsel for the petitioner laid stress in his argument that the petitioner is innocent and he did not act with malafide. His role is not reflected in the FIR,

apart from some fake allegations that he assisted Biswajit Sarma for procuring the work order against the fake scheme.

7. It is also submitted that notices were issued against him under Section 41 CrPC and he has appeared before the IO and has cooperated with the investigation.

8. The learned Public Prosecutor has submitted that there are incriminating materials against the petitioner in the case diary. The delay in filing the FIR was solely that the offence was unearthed when it was found that funds could not be released against the Ponzi schemes. The petitioner is deeply involved with the issuance of fake work order against fake schemes including the procurement of the administrative approval and so on and so forth. The main accused Ajit Sarkar has prayed for bail and his prayer has been rejected.

9. I have considered the submissions at the Bar with circumspection. I have also perused the case diary.

10. The petitioner has cooperated with the investigation and he has pledged to cooperate with the investigation.

11. The petitioner is a local resident and he is not a flight risk. Through the submissions at the Bar, it could be deciphered that the petitioner has not violated any bail conditions.

12. In view of my foregoing discussions, the interim order dated 04.07.2023, is hereby made absolute under the conditions that

1) the petitioners will extend his cooperation with the investigation;

2) he will not tamper with the evidence and;

3) he will refrain from such activities, with which he is alleged, failing which, his bail order will be cancelled.

13. Bail Application stands disposed of.

14. Send back the Case Diary.

JUDGE

Comparing Assistant