

GAHC010149462023



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

Case No. : Bail Appln./2362/2023

GANESH BARMAN
SON OF LATE KESHAB CH. BARMAN,
RESIDENT OF VILLAGE- CHAMATA,
P.O.- PACHIM CHAMATA,
P.S.- BELSOR,
DISTRICT- NALBARI, ASSAM.

VERSUS

THE STATE OF ASSAM
REPRESENTED BY PUBLIC PROSECUTOR, ASSAM.

Advocate for the Petitioner : MR. A CHAUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

20/07/2023

Heard Mr. A M Bora, learned Senior counsel assisted by Mr. D P Borah, learned counsel for the petitioner and Mr. D Das, learned Additional Public Prosecutor, Assam for the State. Also heard Mr. S H Sikdar, learned counsel for the informant.

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 Section 7(a) of the Prevention of Corruption Act, 1988 (as amended in 2018), wherein he was arrested on 29.05.2023 and since then he is in custody.

Perused the case diary placed before the Court today by Mr. D Das, learned Additional Public Prosecutor, Assam.

Earlier the petitioner approached this Court for his bail in said ACB P.S. Case No. 40/2023 in Bail Appln. No. 2040/2023 and the Court by order dated 30.06.2023 rejected the bail prayer of the petitioner.

This is petitioner's 2nd bail application in said ACB P.S. Case No. 40/2023.

The petitioner was arrested in a pre-trapped operation while the complainant handed over a part of the demanded amount to the petitioner amounting to Rs.40,000/- out of the actual demand of Rs.3,00,000/-.

The FSL report reveals that the chemical analysis, i.e., the powdery substance with the notes of Rs.40,000/- seized from the petitioner during the pre-trapped operation gave positive test for sodium iron, carbonate iron as well as positive test for phenolphthalein.

It is to be noted herein that the petitioner was the Officer-in-Charge of Gubardhana Police Station.

Except the length of his detention in custody since his arrest on 29.05.2023 and a medical certificate of his wife dated 30.06.2023 regarding her sufferings from burning micturition, loose motion, lower abdomen pain as well as vomiting, no other grounds have been placed by the petitioner for his release in said ACB P.S. Case No. 40/2023.

However, considering the period of detention of the petitioner in custody for more than 53 days since 29.05.2023, the Court is of the view that further custodial detention of the petitioner is not warranted to investigate the said ACB P.S. Case No. 40/2023. As such, this bail application of the petitioner in said ACB P.S. Case is accepted.

Accordingly, the petitioner, namely, **Sri Ganesh Barman**, be released on bail in said **ACB P.S. Case No. 40/2023** registered under Section 7(a) of the Prevention of Corruption Act, 1988 (as amended in 2018), on furnishing a bail bond of Rs.1,00,000/- with 2 (two) equal sureties of the like amount, where both should be Government Employees either State or Central Government, to the satisfaction of the learned Special Judge, Kamrup (Metro) Guwahati on conditions that the petitioner shall – (i) appear before the Investigating Officer of said ACB P.S. Case No. 40/2023 as and when he

is required for necessary investigation of the case; **(ii)** not leave the territorial jurisdiction of the ACB Police Station, without obtaining prior written permission from the concerned Investigating Officer of the case; **(iii)** not hamper with the investigation, or tamper with the evidence of the case; **(iv)** not indulge in any similar offence or any other offences in future and **(v)** not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer, failing which, the bail granted to him in the aforesaid ACB P.S. Case No. 40/2023 shall stand automatically vacated.

Bail application accordingly stands allowed to the extent above.

Return the case diary.

JUDGE

Comparing Assistant