

GAHC010149702023



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

Case No. : AB/2381/2023

DAODUT HUSSAIN
S/O- ROFIQUL HUSSAIN,
R/O- VILL.- TATIKATA PATHAR,
P.S.- MOIRABARI,
DIST.- MORIGAON, ASSAM.

VERSUS

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

Advocate for the Petitioner : MR A R SIKDAR

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

08.09.2023

Heard Mr. J. A. Sikdar, learned counsel for the accused/applicant. Also heard Mr. B. Sarma, learned Additional Public Prosecutor for the State of Assam.

2. This is an application filed under Section 438 of the Code of Criminal Procedure, 1973, praying for grant of pre arrest bail to the accused/applicant in connection with Moirabari P.S. Case No. 87/2023, under Sections 120(B)/406/419/467/468/471 IPC read with Sections 66(c)/66(d) of I.T. Act, 2000.

3. Case Diary has been received and I have perused the same.

4. It is submitted by the learned counsel for the applicant, Mr. J. A. Sikdar, that the accused/applicant is not at all involved in the alleged offence as alleged in the FIR. From the arrest memo of the other co-accused, it is seen that the name of the present applicant is not at all mentioned in the connected offence. Further, after obtaining the interim pre-arrest bail the accused/applicant appeared before the I.O. and recorded his statement under Section 161 of Cr.P.C. He also submits that there is no chance of absconding of the accused/applicant and accordingly prays for extending the privilege of pre-arrest and if, the same is granted, he is ready to co-operate with further investigation of the case.

5. In this context, the learned Additional Public Prosecutor, Mr. B. Sarma, has submitted that there is a misappropriation of money amounting to Rs.2,70,00,000/- (Rupees Two Crores Seventy lakhs) only by forging some Bank documents etc. and if

the present applicant is released on bail at this stage, there may be probability of hampering and tempering of the entire investigation of this case. Further, he submitted from the statement of the applicant, it reveals that the co-accused Saddam Hussain used the ICICI Bank account of the present applicant to withdraw the money deposited in his account and for that purpose he was also given a sum Rs. 2(two) lakhs. Thus, it is seen that the present applicant is involved in the alleged offence. Accordingly, it is submitted that further custodial interrogation of the present accused/applicant may be necessary for the interest of just and proper investigation of the case.

6. After considering the submissions of learned counsels of both sides, I have perused the Case Diary, which revealed that the applicant had already appeared before the I.O. and his statement under Section 161 of Cr.P.C is recorded. It is also seen that the applicant was given the zimma of his vehicle vide order dated 28.06.2023. More so, from the note of the I.O., it is seen that the case is still under investigation and if the present accused/applicant is released on pre arrest bail, there is a probability of hampering and tempering of the entire investigation.

7. Thus, considering the entire materials in the Case Diary, bail objection and Note filed by the I.O., viz-a-viz the conduct of the accused/applicant, and also considering the nature and gravity of the offence and the punishment prescribed for the same, this Court is of the view that custodial interrogation of the present accused/applicant may be necessary in the interest of just and proper investigation of the case. Accordingly, the petition for pre-arrest bail is rejected and the interim pre-arrest bail order, granted by this Court vide order dated 19.07.2023, is hereby stands vacated.

8. In terms of above, this anticipatory bail application stands disposed of.

9. The Case Diary be sent back.

JUDGE

Comparing Assistant