

GAHC010151682023



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

Case No. : Bail Appln./2408/2023

DILDAR HUSSAIN @ MD DILDAR HUSSAIN
S/O. ABDUL GAFUR, VILL. GUNAIBARI, W/N. 7, P.S. MOIRABARI, DIST.
MORIGAON, ASSAM.

VERSUS

THE STATE OF ASSAM
REP. BY PP, ASSAM.

Advocate for the Petitioner : MR H R A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 28.07.2023

Heard Mr. H. R. A. Choudhury, learned senior counsel assisted by Mr. A. Ahmed, learned counsel for the petitioner. Also heard Mr. R. H. Baruah, learned Additional Public Prosecutor for the State.

This bail application has been preferred under Section 439 of Code of Criminal Procedure, 1973, praying for bail of petitioner, namely, Dildar Hussain

@ Md Dildar Hussain, who has been detained behind the bar since 24.06.2023 (since last 35 days) in connection with Moirabari P. S. Case No. 137/2023 under Section 468/471/419/420/406/409/34 of the IPC.

The accusation in this case is that on 22.02.2023, one Elias Rahman had lodged a complaint before the CJM, Morigaon, *inter-alia*, alleging that the accused persons named in the complaint including the present petitioner have misappropriated Government fund in connection with various Government fund schemes under 14th Finance Commission grants for construction of roads etc. from Gunaibori Zame Mahzid Tiniali to Beelpar Subahi Madrassa and other similar works.

On receipt of the said complaint, learned Chief Judicial Magistrate, Morigaon had forwarded the said complaint to the Officer In-Charge of Moirabari Police Station for registration of case and accordingly, Moirabari P. S. Case No. 137/2023 was registered and the investigation was initiated.

During the pendency of the investigation, the present petitioner was arrested on 24.06.2023, learned counsel for the petitioner submits that the present petitioner is elected President of Luchanabori Gaon Panchayat and in that capacity he is the Member of the Construction Committee, which is constituted under comprehensive guideline for implementation of 14th Finance Commission grant under notification dated 29.11.2017 issued in the name of the Governor of Assam.

Learned senior counsel for the petitioner has submitted that though the present petitioner is one of the Member of the Construction Committee for implementation of scheme under 14th Finance Commission.

It is also submitted that the funds allocated under 14th Finance Commission and infrastructure matters are kept in joint account of the

Chairman/Member Secretary of the Construction Committee and the present petitioner is neither the Chairman nor the Member Secretary of the Construction Committee, he is only a Member of the Construction Committee by virtue of his post. It is also submitted that all the records relating to schemes under 14th Finance Commission is also be maintained by Member Secretary and Chairman of the Construction Committee and therefore, the records are also not within the control of the present petitioner. Moreover, learned senior counsel for the petitioner submits that otherwise also the petitioner has been detained behind the bar since last 35 days and considering the period of detention, it is prayed that he may be allowed to go on bail.

On the other hand, learned Additional Public Prosecutor has produced the case diary of Moirabari P. S. Case No. 137/2023 which was requisitioned in connection with the instant case. He also submitted that the statement of the present petitioner has been reported by the Investigation Officer on two-three occasions under Section 161 Code of Criminal Procedure, 1973, and otherwise the investigation has also progressed.

Considering the submissions made by learned counsel for both sides, and materials available before me on record including the case diary of Moirabari P. S. Case No. 137/2023 as well as considering the fact that the statement of the present petitioner under Section 161 Cr.PC has been recorded by the Investigating Officer on more than two occasions, his further custodial detention does not appear to be necessary for fair completion of the investigation of Moirabari P. S. Case No. 137/2023.

In view of the above, the petitioner, namely, Dildar Hussain @ Md Dildar Hussain is allowed to go on bail on furnishing of bail bond of Rs. 30,000/- (Rupees Thirty Thousand only) with one surety of like amount to the satisfaction

of the Chief Judicial Magistrate, Morigaon with the condition that the petitioner shall co-operate with the Investigating Officer in investigation of Moirabari P. S. Case No. 137/2023.

With the above, observation, this bail application is hereby disposed of.
Sent back the case diary.

JUDGE

Comparing Assistant