

GAHC010154772023



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

Case No. : AB/2525/2023

CHAMPAK KALITA
S/O SRI MANORANJAN KALITA
R/O VILL- BORGUNORI
P.S. PATHSALA
DIST. BAJALI, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. N K KALITA

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

08.11.2023

Heard Mr. N.K. Kalita, learned counsel for the applicant and also heard Mr. B. Sarma, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application under Section 438 Cr.P.C. is preferred by the applicant, namely,

Champak Kalita, who has been apprehending arrest in connection with Pathsala P.S. Case No.46/2023, under Section 14/15 of the Assam Game and Betting Act, 1970, for grant of pre-arrest bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by one Nazrul Islam, ASI of Pathsala P.S. on 13.07.2023. The essence of allegation made in the aforesaid FIR is that acting on a tip off he has conducted search in the house of Champak Kalita, the present applicant and arrested one Bhabesh Das, Kapil Dutta and Dipak Ch. Barman while they were playing cards and seized a sum of ₹ 5,300/- and 104 nos. of playing cards from them while they were illegally playing game and betting.

4. Mr. Kalita, learned counsel for the applicant submits that this Court was pleased to grant interim protection to the applicant vide order dated 25.07.2023, and pursuant to the said order he had appeared before the I.O. and he has been cooperating with the investigating agency and that he is no way involved with the offence alleged in the FIR and in fact, he has hosted a dinner to his friends and three of his friends came to attend the said dinner and that they were playing cards and they were arrested by police and the only allegation against the applicant is that he is the owner of the said house and since he has been cooperating with the investigating agency, Mr. Kalita contended to make the interim order dated 25.07.2023, absolute, in the same terms and conditions.

5. On the other hand, Mr. B. Sarma, learned Additional Public Prosecutor submits that he has not received the case diary.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record.

7. But it appears from the record that the application was filed on 17.07.2023, and the interim order was passed on 25.07.2023, and since then more than 3 months have already elapsed. But, the learned Additional P.P. has failed to produce case diary before this Court. It is to be noted here that in the case of **Satender Kumar Antil Vs. Central Bureau of Investigation & Anr.** reported in **2022 LiveLaw (SC) 577**, a direction has been issued by the Hon'ble Supreme Court to dispose of the anticipatory bail application preferably within a period of six weeks from the date of filing. In this case, six weeks

have already been elapsed and the case diary has not been made available before this Court.

8. Therefore, having regards to above and also the nature and gravity of the offence and the punishment prescribed for the same and also considering the fact that the applicant had appeared before the I.O. and he has been cooperating with the investigating agency, this Court is inclined to make the interim order dated 25.07.2023 absolute, in the same terms and conditions.

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

Sd/- Robin Phukan
JUDGE

Comparing Assistant