

GAHC010155002023



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

Case No. : AB/2486/2023

BINOD BORAH
S/O LATE DEVICHARAN BORAH
R/O MORAN NATUNNAGAR,
P.O. DIKHARI MORANHAT UNDER MORANHAT POLICE STATION,
IN THE DISTRICT OF DIBRUGARH, ASSAM, PIN- 785675

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A K BHATTACHARYYA

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

23.08.2023

Heard Mr. A.K. Bhattacharyya, learned Senior counsel assisted by Ms. R.B. Deb, learned counsel for the applicant. Also heard Mr. B. Sarma, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. Apprehending arrest in connection with Simaluguri GRPS Case No.03/2023, under Sections 420/409 IPC, this application under Section 438 Cr.P.C. is preferred by the applicant Binod Borah for grant of pre-arrest bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of one FIR lodged by one David Z.N. Sanga, Inspector/RPF, N.F. Railway on 20.04.2023. The essence of allegation made in the FIR is that the applicant Shri Binod Borah, Station Superintendent/Moranhat Railway Station is involved in siphoning out and embezzlement of a sum of ₹ 1,52,61,215/-.

4. Mr. Bhattacharyya, learned Senior counsel for the applicant submits that this Court vide order dated 21.07.2023, this Court was pleased to extend the privilege of pre-arrest bail to the applicant and pursuant to the said order, the applicant had appeared before the I.O. and his statement is recorded and he has been cooperating with the investigating agency. Therefore, Mr. Bhattacharyya contended to make the interim order dated 21.07.2023, absolute in the same terms and conditions.

5. On the other hand, Mr. B. Sarma, learned Additional Public Prosecutor has produced the case diary before this Court and confirmed that the applicant had appeared before the I.O. and he has been cooperating with the investigating agency. Further, Mr. Sarma submits that during the course of investigation the I.O. has examined several witnesses and also seized relevant documents, but verification of the documents could not be carried out as the I.O. was on leave and therefore, Mr. Sarma contended to grant some time to him to produce the updated case diary before this Court.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Sarma, learned Additional P.P.

7. It is not in dispute that the applicant had appeared before the I.O. and his statement is recorded and he has been extending cooperation with the investigating agency. Further, it appears from the case diary that the I.O. has achieved substantial progress in the investigation and he has seized relevant documents. Though Mr. Sarma submits that he may be granted some time to produce the updated case diary before this

Court as the verification of the seized documents could not be carried out yet, the said submission left this Court unimpressed.

8. Having considered the aforesaid circumstances specially the progress of investigation and the materials collected so far in the case diary, further custodial interrogation of the applicant seems to be not warranted here in this case and accordingly, the interim order dated 21.07.2023 is hereby made absolute.

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

10. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant