

GAHC010165482023



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

Case No. : AB/2634/2023

KABINDRA ROY
S/O LATE RABILOCHAN ROY, R/O VILL-CHENGA, P.O.-CHENGA, P.S.-
BARPETA, DIST-BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR H R A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

13.09.2023

Heard Mr. H.R.A. Choudhury, learned Senior Counsel assisted by Mr. P.A. Ahmed, learned counsel for the applicant and Ms. N. Das, learned Addl. P.P. for the State respondent.

2. Apprehending arrest in connection with **Sorbhog PS Case No. 80/2023**, under Sections 120[B]/420/468/471 of the IPC, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicant, namely, **Kabindra Roy** for grant of pre-arrest bail.

3. The said case has been registered on the basis of an FIR lodged by

Geetashri Lachit, ADC Cum Addl. District Magistrate, Barpeta, on 18.07.2023. The essence of allegations made in the FIR is that while verifying the OBC Caste Certificate [Application Reference No. SSDG/ED/CASTE/8589411, dated 04.07.2023] online in the e-District portal, the linkage certificate i.e. the caste OBC certificate of the applicant, Nandeshwar Das, is found to be fake, as all offline issuance caste certificate was stopped, since 31.07.2022. And the certificate, which was enclosed with the application was issued on 18.12.2022, and counter signature of the ADC has been also forged.

4. Mr. Choudhury, learned Senior Counsel appearing for the applicant submits that pursuant to the order of this court dated 01.08.2023, the applicant had appeared before the IO and his statement is recorded and he has been co-operating with the Investigating Agency and that he was the General Secretary of Barpeta District OBC Association and therefore, it is contended to make the interim order, dated 01.08.2023, absolute in the same terms and conditions.

5. On the other Ms. Das, learned Addl. P.P. has produced the case diary before this court and opposed the petition on the ground that the applicant himself admitted that even after issuance of offline certificate was stopped since 31.07.2022, he has been issuing false castecertificate after taking a sum of Rs. 5,000/- for each certificate from the applicants. Ms. Das further submits that the investigation is still going on and several incriminating documents and rubber stumps of Chairman of OBC Development Board, Barpeta have been recovered from the house of the present applicant and his interrogation is necessary in the interest of investigation and therefore, it is contended to dismiss the petition.

6. Having heard the submissions 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 learned Additional Public Prosecutor.

7. It appears from the case diary that the applicant had appeared before the IO and his statement is recorded and he has been cooperating with the investigating

agency and the investigation is still going on and the entire racket involved in issuing such certificate are yet to be arrested and therefore, the custodial interrogation of the applicant is very much necessary in the interest of investigation. Therefore, this Court is of the view that this is not a fit case where the privilege of pre-arrest bail can be granted to the applicant.

8. Accordingly, this petition stands dismissed and the interim order dated 01.08.2023, stands vacated and the applicant shall surrender before the IO forthwith.

9. In terms of above this AB stands disposed of.

10. The case diary be returned.

JUDGE

Comparing Assistant