

GAHC010176002023



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

Case No. : AB/2793/2023

MANOMOHAN SARMA
SON OF LATE SRI JAMINI MOHAN SARMA, RESIDENT OF HOUSE NO. 30,
INDIRA GANDHI ROAD, SANTIPUR HILL SIDE EAST, P.O. BHARALUMUKH,
P.S. BHARALUMUKH, PIN- 781009, DISTRICT- KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. M SARMA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER

Date : 08.09.2023

Heard Mr. D. K. Baidya, learned counsel for the petitioner. Also heard Ms. S. H. Bora, learned Additional Public Prosecutor for the State of Assam.

This is an application under Section 438 of the Code of Criminal Procedure, 1973, for grant of pre-arrest bail to the accused/petitioner, who is apprehending arrest in connection with B.I.(E.O.) P.S. Case No. 09/2022, under Sections 467/420/406/468/471/472/475 of the Indian Penal Code.

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

It is submitted by the learned counsel for the petitioner that after obtaining the interim pre-arrest bail, the petitioner accordingly appeared before the I.O. and co-operated in the investigation of this case and also recorded his statement under Section 161 Cr.P.C. Further, all the relevant documents, which are necessary for the investigation purpose, are already been seized by the I.O. in connection with this case. Further it is submitted that in the F.I.R., the allegation is specifically brought against one Dilip Kumar Paul, ex-employee of Apex Bank, Dhubri Branch, to the effect that he fraudulently collected an

amount of Rs. 7,64,000/- by issuing fake deposit receipts and passbooks. It is a fact that from the year 2010 to 2014, the petitioner was discharging his duty as Branch Manager of Dhubri Branch, but he is no way connected with the alleged offence. Rather the offence might have been committed by using the false signatures and seal of the Branch Manager. It is further submitted that the petitioner is a retired bank employee. However, he has extended his co-operation in the investigation of this case and he is still ready and willing to co-operate with the I.O. in the further investigation of this case if he is granted with the privilege of pre-arrest bail.

In this context, the learned Additional Public Prosecutor has submitted that the present petitioner has already appeared before the I.O. after obtaining the interim pre-arrest bail and also recorded his statement. Further it is a fact that most of the documents are already been collected by the I.O. during the course of investigation. But, there are some adverse observation made by the I.O. which is available in the Case Diary and accordingly, the learned Additional Public Prosecutor raised objection with granting pre-arrest bail to the present petitioner.

After hearing the submissions made by the learned counsels for both sides, I have perused the Case Diary and it is seen that there is no direct incriminating materials against the present petitioner. Further, from the note of

the I.O., it reveals that the present petitioner was very negligent towards his duty which may facilitate the prime accused- Dilip Kumar Paul in committing the offence of misappropriating the money by creating some fake fix deposits. Considering this aspect of the case and also considering the conduct of the present petitioner, who already appeared before the I.O., and also considering the fact that most of the materials, which will be required for further investigation of the case, has already been seized by the I.O., I find it a fit case to extend the privilege of pre-arrest bail to the present petitioner and accordingly, the interim pre-arrest bail granted by this Court vide order dated 11.08.2023, is hereby made absolute in the same terms and conditions.

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

The Case Diary be sent back.

JUDGE

Comparing Assistant