

GAHC010177132023



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

Case No. : AB/2799/2023

AFTAB AHMED
S/O LATE GIYAS UDDIN
R/O VILL- HATIMURIA
P.O. MOIRABARI
P.S. MOIRABARI
DIST. MORIGAON, ASSAM
PIN-782126

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR A A DEWAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER

Date : 01.09.2023

Heard Mr. A. A. Dewan, learned counsel for the petitioner. Also heard Mr. B. Sharma, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 438 of the Code of Criminal Procedure, 1973, praying for grant of pre-arrest bail to the accused/petitioner, who is apprehending arrest in connection with Moirabari P.S. Case No. 87/2023, under Sections 120B/406/419/420/467/468/471 of the Indian Penal Code *read with* Section 66 (c)/66 (D) of the I.T. Act, 2000.

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

It is submitted by the learned counsel for the petitioner, Mr. Dewan, that the present accused/petitioner is innocent and he is no way connected with the alleged offence. But he is apprehending arrest because he belongs to the same village and also under the jurisdiction of the same Police Station where the other accused persons are also residing and as he occasionally met each other in the local market etc., the petitioner is also under apprehension that he may be arrested in connection with this case. Further it is submitted that the petitioner never approached before the informant/company for availing any loan

nor he submitted any documents before the said company to obtain any loan by providing any fake documents. He further submitted that the prime accused has already been arrested in connection with this case and he is ready and willing to cooperate with the I.O. for further investigation of this case if he is granted with the privilege of pre-arrest bail.

In this context, the learned Additional Public Prosecutor, Mr. Sharma, has submitted that there are sufficient incriminating materials against the present accused/petitioner showing his direct involvement in the alleged offence. Further, from the materials in the Case Diary, it also reveals that one fake account was created in the name of one Amit Kumar and from the said fake account of Amit Kumar, Rs. 1,00,000/- was also transferred to the account of the present petitioner and from the statement of another co-accused, Saiful Islam, it reveals that he is involved in the said organized crime whereby more than Rs. 30 Lakhs of amount had already been siphoned off from the said company by creating some fake account by producing some fake documents. Accordingly, the learned Additional Public Prosecutor submits that the custodial interrogation of the present accused/petitioner may be required for the interest of just and proper investigation of this case.

After hearing the submissions of learned counsels for both sides, I have perused the Case Diary and from the bail objection of the I.O., it reveals that the arrested accused persons along with other accused persons have already siphoned off more than Rs. 30 Lakhs from the said company in the name of loan

by creating several fake accounts by producing some fake documents which were relevant for granting loan by the said finance company. It is further seen that the entire crime is an organized crime and lots of persons are involved in the alleged crime and several lakhs of money had already been siphoned off from the company by the arrested accused persons along with other persons who are yet to be booked by the I.O. Further, from the note of the I.O., it also reveals that if the present petitioner is allowed to go on bail, then there will be difficulty on the part of the Investigating Officer to book the other accused persons and accordingly his custodial interrogation is necessary for the interest of just and proper investigation of this case.

Considering the submissions of learned counsels for both sides and also considering the materials in the Case Diary as well as the bail objection submitted by the I.O., I find that custodial interrogation of the present accused/petitioner may be necessary in this case to unearth some more facts and materials of this case and also for the interest of just and proper investigation and accordingly, I am of the view that this is not a fit case where the privilege of pre-arrest bail can be extended to the accused/petitioner at this stage and accordingly, the same stands rejected.

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

JUDGE

Comparing Assistant