

GAHC010183132023



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

Case No. : AB/2906/2023

NANDAN PRASAD
S/O SRI HARIHAR PRASAD
R/O RLY. QTR. NO. 671/B, NEW COLONY KALIBARI, P.O. AND P.S.
BONGAIGAON, DIST. BONGAIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. DILIP DEY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

29.09.2023

Heard Mr. D. Dey, learned counsel for the applicant and Mr. K.K. Parasar, learned Additional Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with the **Bongaigaon P.S. Case No. 320/2023**, under Sections 406/420 of the IPC, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicant namely, **Sri Nandan Prasad** for grant of pre-arrest bail.

3. It is to be noted here that the said case has been registered on the

basis of one F.I.R., lodged by one Doya Sundor Mahanta, on 04.08.2023. The essence of allegations made in the FIR is that the applicant while serving in the Kotak Mahindra Life Insurance Company Limited, misappropriated funds and committed criminal breach of trust and cheating by collecting money from the customers and used the same for his personal gain and he had made confession that with the help of one ex-employee Mr. Subimal Das, he had generated fake receipts from the nearest studio namely, 'Click Studio' and he had returned a sum of Rs. 9.16 Lakhs to the company and there are fifty policies and some other suspected policies, wherein the company has not received premium, which were misappropriated by the applicant.

4. Mr. Dey, learned counsel for the applicant submits that the applicant had already made confession and he had returned a sum of Rs. 9.16 Lakhs to the company and he will also undertake to return the remaining amount and he will disclose before the police who are the other persons involved with him and therefore, it is contended to allow the petition.

5. On the other hand, by producing the Case Diary before this Court, Mr. Parasar, learned Additional Public Prosecutor submits that the materials collected so far in the case diary shows the complicity of the applicant with the offence alleged in the FIR and that his custodial interrogation is very much necessary to recover the remaining amount and therefore, it is contended to dismiss the petition.

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 produced before this Court with the assistance of learned Additional Public Prosecutor.

7. The case diary indicates that the IO has collected sufficient incriminating materials in support of the allegation made in the FIR and that the

applicant had returned a sum of Rs. 9.16 Lakhs to the company. Further, it appears that there are many policies in which, the company has not received the premium.

8. In view of the materials so far collected in the case diary, this Court is of the view that custodial interrogation of the applicant is necessary to recover the remaining amount and to unearth the conspiracy. Accordingly this Court is of the view that this is not a fit case where the privilege of pre-arrest bail can be extended to the applicant and therefore, the same is dismissed.

9. Case diary be returned.

JUDGE

Comparing Assistant