

GAHC010190992023



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

Case No. : Bail Appln./3029/2023

ATISH KR. TIWARI
S/O LATE SHIV SANKAR TIWARI
PERMANENT ADDRESS- VILL- SAIDPURA
P.O.SAIDPURA,P.S. GORIAKOTHI
DIST. SIWAN, BIHAR
PRESENT ADDRESS-C/O KARBOM RIRAM
NEAR BORUM BRIDGE
NAHARLAGUN, P.S. NAHARLAGUN
DIST. PAPUM PARE, ARUNACHAL PRADESH.

VERSUS

THE STATE OF ASSAM AND ANR
REP. BY THE PP, ASSAM

2:THE SUPERINTENDENT OF STATE TAX BUREAU OF INVESTIGATION
(ECONOMIC OFFENCE)
ASSAM, SRIMANTAPUR
GUWAHATI-3

Advocate for the Petitioner : MR G PHUKAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

01.09.2023

Heard Mr. G. Phukan, learned counsel for the accused and also heard Ms. A.

Begum, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application, under Section 439 of the Code of Criminal Procedure, 1973 is preferred by accused Atish Kr. Tiwari, who has been languishing in jail hazot since 05.07.2023, in connection with BI(EO) P.S. Case No.15/2023, under Section 120(B)/419/420/468/471 IPC, for granting bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of one FIR lodged by one Naba Kumar Deka, Assistant Commissioner of State Tax, Guwahati, Unit-D. The essence of allegation against the accused is that during the period of December 2022 to March 2023, the accused approaches the proprietors of farms, namely, M/s Donyi Lella Enterprise, M/s G.T. Enterprise, M/s Zee Engineering and Construction, M/s Zee Engineering, M/s Neelam Sanju etc. and induced them to receive and accept fake invoices in the name of a firm in the name and style of M/s Deepak Enterprise from him and later submitted those invoices to avail illegal tax benefits as against those invoices no physical movement of goods actually taken place and he, in connivance with Vivek Kr. Gupta, Proprietor of M/s Sab Trading and M/s Noth East Enterprise, furnished fake invoices in the name of the farm M/s Deepak Enterprise and claimed illegal tax benefits without physical movement of goods.

4. Mr. Phukan, learned counsel for the accused, submits that the accused was earlier arrested in connection with BE(IO) P.S. Case No.14/2023, under Section 120B/419/420/468/471 IPC and in this case he was shown arrested on 05.07.2023 and since then he has been languishing in jail hazot for last 58 days and that he is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, Ms. A. Begum, learned Additional Public Prosecutor has produced the case diary before this Court and submits that the I.O. has collected sufficient incriminating materials against the accused. However, Ms. Begum submits that the I.O. has examined several witnesses and also seized the relevant documents here in this case

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

7. It is not in dispute that the accused has been languishing in jail hazot since 05.07.2023 for last 58 days. The case diary also reveals that substantial progress has been achieved in the investigation of the case by the I.O. Relevant documents have already been seized. And under the aforesaid facts and circumstances and balancing the period of detention with that of the nature and gravity of the offence, this Court is inclined to allowed this petition. Accordingly, it is provided that on furnishing a bail bond of ₹ 50,000/- with one surety of the like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup(M), the accused be enlarged on bail in connection with BI(EO) P.S. Case No.15/2023, under Section 120(B)/419/420/468/471 IPC.
8. In terms of above, this bail application stands disposed of.
9. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant