

GAHC010196712023



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

Case No. : Bail Appln./3133/2023

SUBHASH CHANDRA PAREEK
S/O LATE MAHAVIR PRASAD
R/O VILL- /PO. GOGASAR
P.S. RATANGARH,
DIST. CHURU, RAJASTHAN-331504

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M L PANDIA

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 08.09.2023

Heard Mr. M. L. Pandia, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 439 of the Code of Criminal Procedure, 1973, praying for grant of bail to the accused/petitioner, who has been arrested in connection with Basistha P.S. Case No. 409/2023, under Section 408 of the Indian Penal Code.

It is submitted by the learned counsel for the petitioner that some false allegation has been brought against the present petitioner that he has fraudulently and dishonestly misappropriated huge amount of money of around Rs. 12 to 15 lakhs. But, the petitioner is innocent and he is no way involved in the alleged offence. More so, from the F.I.R. also, it is seen that the informant is not sure as to how much exact amount of money is alleged to have been misappropriated by the present petitioner. The learned counsel for the petitioner further submitted that without issuing notice under Section 41 A of the Code of Criminal Procedure, the police have arrested the present accused/petitioner which is in violation of the guideline laid down by the Hon'ble Supreme Court in **Arnesh Kumar Vs. State of Bihar**, reported in **(2014) 8 SCC 273**, and that

apart, the police have also not taken signature of the witnesses on the Arrest Memo which is required under Section 41 B of the Code of Criminal Procedure. Further it is submitted that the petitioner is in custody since 15.07.2023 and thus the I.O. got sufficient time for his custodial interrogation. However, the accused is still ready and willing to co-operate with the I.O. in the further investigation of this case if he is allowed to go on bail.

In this context, the learned Additional Public Prosecutor has submitted that there is specific allegation brought against the present petitioner. However, he admitted that the accused/ petitioner is behind the bar for a considerable period and hence, considering his length of detention, the order may be passed accordingly.

After hearing the submissions made by the learned counsels for both sides, I have perused the case record and it is seen that the accused is behind the bar since 15.07.2023 and thus, the I.O. got ample opportunity to interrogate the accused/ petitioner keeping him in custody and accordingly, I find that further custodial interrogation of the accused/petitioner seems to be not necessary here in this case.

Accordingly, it is provided that on furnishing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup(M), Guwahati, the

accused/petitioner, namely, Subhash Chandra Pareek, be enlarged on bail, subject to the following conditions:

- (i) that the petitioner shall make himself available for interrogation by the Investigating Officer as and when required;
- (ii) that the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer; and
- (iii) that the petitioner shall not leave the jurisdiction of the learned Chief Judicial Magistrate, Kamrup(M), without prior permission.

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

JUDGE

Comparing Assistant