

GAHC010204052023



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

Case No. : AB/3100/2023

RAJ KUMAR AGARWAL
S/O SRI LAL CHAND AGARWAL
R/O TRANSVILLA, CHATTRIBARI
GUWAHATI-781008,
DIST.KAMRUP (M), ASSAM
PROPRIETOR- R.R. MINERAL RESOURCES.

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. B CHAKRABORTY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

15.09.2023

Heard Mr. B. Chakrabarty, learned counsel for the applicant. Also heard Mr. K.K. Parasar, learned Additional Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with the **BI [EO] P. S. Case No. 04/2023**, under Sections 120[B]/468/471/420 of the IPC, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by

applicant, namely, **Sri Raj Kumar Agarwal** 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 Bipul Medhi, Assistant Commissioner of State Tax Guwahati, Unit-D, on 09.01.2023. The essence of allegations made in the FIR is that one Dulu Deb obtained a GST registration in M/s Purbanchal Minerals under Assam GST Act, 2017. During the conduct of investigation of the business behavior of M/s Purbanchal Minerals, the department unearth that the accused in connivance with one Manoj Goyal has deliberately entered into a nexus of common criminal conspiracy with a malafide intent to defraud and deprive the State of its legitimate revenue under the veil of making supply of coal.

4. Mr. Chakrabarty, learned counsel for the applicant submits that the applicant has received one notice under Section 91 of the Cr.P.C. from the IO concerned to appear before him with documents, but due to ailments and due to death of his one relative, the applicant could not appear before the IO and produce the documents. Mr. Chakrabarty further submits that the name of the applicant is not mentioned in the FIR and that he is not involved with the offence alleged in the FIR 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, Mr. Parasar, learned Addl. P.P. has produced a bail objection report, received from the IO concerned, before this Court and submits that during the investigation, the IO has collected sufficient materials against the applicant and that his custodial interrogation is very much necessary, in the interest of investigation 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 as well as the documents placed on record and also perused the bail objection report produced before this Court by the learned Additional Public Prosecutor.

7. The FIR and the documents placed on record show the complicity of the applicant with the offence alleged in the FIR and the investigation is still going on and at this stage it cannot be said that the custodial interrogation of the applicant is not required, in the interest of investigation. Further, it appears from the bail objection report produced before this Court by the learned Addl. P.P. that the applicant is the Proprietor of RR Minerals and deals with the business of coal and he fraudulently shown to have purchased coal, amounting to Rs. 63,73,975/- and that he has connivance with M/s Purbanchal Minerals and entered into circular trading through false tax invoices and e-way bill and illegally claimed a huge amount of ITC, which caused loss Government exchequer.

8. Under the aforesaid facts and circumstances 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.

9. Accordingly, this AB stands dismissed.

JUDGE

Comparing Assistant