

GAHC010204722023



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

Case No. : AB/3168/2023

SHAHZAHAN ALI AHMED
S/O LATE MAYEZ UDDIN AHMED R/O WARD NO 9, HOWLY TOWN P.O AND
P.S - HOWLY, DIST- BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. R ALI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

25.09.2023

Heard Mr. R. Ali, learned counsel for the applicant. Also heard Mr. K. Baishya, learned Additional Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with the **Nalbari P.S. Case No. 381/2023**, under Sections 120[B]/420/384 of the IPC, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicant namely, **Shahzahan Ali Ahmed** 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 Ashik Ikbal, on 03.09.2023. The essence of allegations made in the FIR is that one Jugal Chandra Sarma; Shahzahan Ali [the present applicant]; and Bahar Ali have taken a sum of Rs. 36,70,000/- during the period of 2021 – 2023, from the informant and his family members, promising to provide jobs in the department of Panchayat and Rural Development, but they have neither provide any job nor returned the sum, which they have taken and thereby, cheated the informant.

4. Mr. Ali, learned counsel for the applicant submits that the applicant is innocent and no way involved with the offence alleged in the FIR. Mr. Ali further submits that the applicant was transferred from Nalbari Zilla Parishad to Cachar Zilla Parishad, as Executive Engineer, on 25.03.2022, and accordingly, he resumes his charge at Cachar, Silchar on 02.04.2022. Mr. Ali also submits that the incident took place during the year 2021 – 2023 and that the applicant is ready to cooperate with the investigating agency, and therefore, it is contended to allow the petition.

5. On the other hand, by producing the Case Diary before this Court, Mr. Baishya, learned Additional Public Prosecutor submits that the investigation is in initial stage. Mr. Baishya further submits that the materials collected so far in the case diary reveals the complicity of the applicant with the offence alleged in the FIR 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 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. It appears from the case diary that the investigation is in initial stage and the IO has also examined three witnesses and collected sufficient materials in support of the allegation made in the FIR. and extending the privilege of pre-arrest bail will misdirect the investigation.

8. 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, this AB stands dismissed.

9. The case diary be returned.

JUDGE

Comparing Assistant