

GAHC010206942023



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

Case No. : Bail Appln./3266/2023

ASHIM JYOTI CHAKRABORTY
S/O- AKSHAY CHAKRABORTY, R/O- BANGAON, P.S. BELSOR, DIST.-
NALBARI, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR S BORTHAKUR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

29.09.2023.

Heard Mr. S. Borthakur, learned counsel for the accused and also heard Mr. D. Das, learned Addl. P.P., Assam appearing for the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure,

1973, is preferred by accused, namely, Ashim Jyoti Chakravarty, who has been languishing in jail hazot, in connection with Chandmari P.S. Case No.325/2023, under Section 120(B)/406/420 IPC, since 19.08.2023, for granting bail.

3. The aforementioned case has been registered on the basis of an FIR, lodged by one Hareswar Kalita of Batahghuli on, 18.08.2023, to the effect that through one of his relative, Smti Santana Deka, he paid a sum of Rs. 4,00,000/ to one Anurag Chaliha, a powerful member of BJP, for a post of Grade-III/Grade-IV post in Health Department for his wife Smti. Nisha Barman. But, neither his wife was selected nor the sum he paid was returned. And later on he came to know that Anurag Chaliha and his colleague have collected huge amount of money for different types of job in Assam Government and opened a big market.

4. Mr. S. Barthakur the learned counsel for the accused submitted that the name of the accused finds no mention in the FIR and that he is behind the bar for last 40 days and the offences are of 40 days and that the accused will co-operate with the investigating agency and therefore it is contended to allow this petition.

5. On the other hand, Mr. D. Das, the learned Addl. P.P., Assam has vehemently opposed the petition on the ground that though the name of the accused is not there in the FIR yet during investigation, the I.O. has collected sufficient materials to show his complicity with the offence alleged; and that investigation is going on and the main accused are yet to be arrested and if the accused is released on bail at this stage, it will hamper the investigation and arrest of the main accused.

6. Having heard the submissions 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 the court, with the assistance of the learned Addl. P.P.

7. It appears that the accused was arrested on 20.08.2023, and since then he has been languishing in jail hazoot for last 40 days. Further, it appears from the Case Diary that the I.O. has collected sufficient incriminating materials in support of the allegation made in the FIR and he is also part of the whole conspiracy to collect huge amount of money from the informant and other persons, for various post in the Health Department of Assam Government. Further, it appears from the Case Diary that investigation is being carried out and the main culprits are yet to be arrested and the whole conspiracy and the persons involved in the same, is yet to be unearthed.

8. Under the aforementioned facts and circumstances this Court is of the considered opinion that this is not a fit case for granting the privilege of bail to the accused. Accordingly, the petition stands dismissed. The Case Diary be returned.

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

JUDGE

Comparing Assistant