

GAHC010209762023



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

Case No. : AB/3224/2023

JANARDAN HAZARIKA
SON OF LATE RAJEN HAZARIKA, RESIDENT OF- HALWATING, P.O -
MADHAB NAGAR, DISTRICT - SIVASAGAR, ASSAM, PIN - 785681

VERSUS

THE STATE OF ASSAM
REPRESENTED BY ITS PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MS M DAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

09.10.2023

Heard Ms. M. Das, learned counsel for the applicant. Also heard Mr. D. Das, learned Addl. P.P. for the State respondent.

2. Apprehending arrest in ***Diphu Police Station Case No. 79/2023, under sections 120(B)/420/500/511 IPC, read with section 67 of IT***

Act and section 3 of Police (Incitement to Disaffection) Act 1922, this application under section ***438 Cr.P.C.*** is preferred by applicant, namely, ***Shri Janardan Hazarika***, for grant of pre-arrest bail.

3. It is to be noted here that above noted case has been registered on the basis of one FIR lodged by UBC - Ramesh Chetry, of Diphu Police Reserve, on 21.07.2023.

4. The essence of allegations, made in the FIR dated 21.07.2023, is that on that day at about 5.30 pm, he came to know about an audio clip, that goes viral in social media, wherein two persons, who identified themselves as Lachit Gogoi and Milon Buragohain, were talking about monetary issues and taking the name of the Superintendent of Police, Karbi Anglong and Golaghat along with some other politicians and BJP leaders. The audio clip also reveals that there was a criminal conspiracy to run illegal syndicate and some influential persons, perhaps, extorting money and cheating traders/businessman and also in the name of Government Officials and to defame them and trying to evade tax and intended to cause disaffection towards Government and Police Official.

5. Ms. Das, the learned counsel for the applicants submits that the name of the applicant finds no mention in the FIR and that he is innocent and no way involves with the offences as alleged in the FIR and that he is being searched by police in his Hotel, situated at Jorhat, and therefore, he has apprehension that he may be arrested by police. Further, Ms. Das further submits that the applicant is ready to co-operate with the investigating agency and therefore, it is contended to allow this petition.

6. On the other hand, Mr. D. Das, the learned Addl. P.P. for the state respondents, submits that the investigating officer has collected some materials

against the applicant and his custodial interrogation is necessary to unearth the conspiracy.

7. 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 with the assistance of learned Addl. P.P.

8. It appears that the materials collected so far in the case diary fails to disclose any legally prosecutable culpability against the present applicant. Consequently, this court is left unimpressed by the submission of Mr. Das, the learned Addl. P.P. that custodial interrogation of the applicant is necessary in the interest of investigation.

9. Accordingly, this court is inclined to allow this petition. It is provided that in the event of arrest of the applicant Janardan Hazarika, in connection with ***Diphu Police Station Case No. 79/20213***, under sections *120(B)/420/500/511 IPC, read with section 67 of IT Act and section 3 of Police (Incitement to Disaffection) Act 1922*, he shall be released on pre-arrest bail on his executing a bond of Rs.50,000/ (Rupees Fifty Thousand), with one surety of like amount to the satisfaction of the arresting authority.

11. The above privilege is subject to following conditions:-

(i) that the applicant shall make **himself** available for interrogation by the Investigating Officer as and when required;

(ii) that the applicant 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 applicant shall not leave the jurisdiction of the learned **CJM, Karbi Anglong, Diphu**, without prior permission.

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

Comparing Assistant

JUDGE