

GAHC010211792023



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

Case No. : AB/3218/2023

RIYAJOT ALI @ RIAJAT ALI
S/O HAJROT ALI @ HAJARAT ALI
VILL- NO. 2 ISLAMPUR
P.S. BIHPURIA
DIST. LAKHIMPUR
ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP
ASSAM

Advocate for : MR H R A CHOUDHURY
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

B E F O R E
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

05.10.2023

1. Heard Mr. HRA Choudhury, learned Senior Counsel for the petitioner as well as Mr. B. Sarmah, learned Addl. P.P. appearing for the State respondent.

2. The petitioner, namely, Riyajot Ali @ Riajat Ali, has filed this application under Section 438 Cr.P.C with prayer for pre-arrest bail, as he is apprehending arrest in connection with Bihpuria P.S. Case No. 94/2023, under Section 120(B)/406/420/489(A)/489(C)/489(D)/34 IPC.

3. The learned Senior Counsel has submitted on behalf of the petitioner, Riyajot Ali @ Riajat Ali that the petitioner has been wrongly booked under Section 489(A)/489(C)/489(D)/34 IPC. The allegation against the petitioner is relating to dealing in fake gold, whereas, he has also been booked for offences relating to fake currency.

4. The learned Addl. P.P. has raised serious objections stating that there are cogent materials in the case diary against the petitioner. The petitioner is a habitual offender and he has been directly implicated by the co-accused, who was forwarded to custody in connection with this case. The petitioner was earlier also booked in connection with cases relating to fake gold.

5. Per contra, the learned Senior Counsel for the petitioner has submitted that an accused cannot be made liable based on the statements of the co-accused.

6. The FIR unfolds that on information from a reliable source that Md. Ainuddin has been dealing in fake Indian currency at No. 2, Sonapur area, a

search operation was carried out by the police, who could apprehend only Md. Ainuddin while the other accused persons fled from the place of occurrence. No fake currency was seized from the place of occurrence but Md. Ainuddin confessed that the present petitioner along with the other co-accused named in the FIR in collusion with Md. Ainuddin have been dealing in fake gold biscuit, counterfeit statue of Jesus Christ, Fake Gold boat. The police raided the house of all the accused named in the FIR but no fake Indian currency or fake gold could be recovered from any of the residences.

7. I have perused the case diary and I have considered the submissions of both the sides. There are cogent materials in the case diary against the petitioner, who are booked under Sections 120(B)/406/420/489(A)/489(C)/489(D)/34 IPC. The petitioner is booked under a heinous offence. The import of the Sections does not entitle the petitioner to pre-arrest bail, more so, when, there are incriminating materials in the case diary against the petitioner. Investigation may be adversely affected if the petitioner is insulated by an order of anticipatory bail. The provisions of Section 438 Cr.P.C cannot be exercised in an untrammelled manner.

8. Considering all aspect and in view of my foregoing discussions, petition stands rejected at this stage of investigation.

Send back the case diary.

JUDGE

Comparing Assistant