

GAHC010214322023



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

Case No. : AB/3285/2023

ANKUR JYOTI NATH
S/O HAREN NATH
R/O NA NATH GAON
P.O.AND P.S. NEMUGURI
DIST. SIVASAGAR,ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MS. P BORAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

18.10.2023

Heard Ms. P. Borah, learned counsel for the applicant and also heard Mr. P. Borthakur, learned Additional Public Prosecutor, Assam for the State respondent.

2. Apprehending arrest in connection with Tinsukia P.S. Case No.379/2023, under Sections 120(b)/406/420/468 of the Indian Penal Code, this application under Section 438 Cr.P.C. is preferred by the applicant, namely, Ankur Jyoti Nath, for grant of pre-arrest bail.
3. The above noted case has been registered on the basis of one FIR lodged by one Dwipen Gohain

and two others on 18.06.2023.

4. The essence of allegation made in the FIR is that since 5-6 months some persons, namely, Nilpaban Chetia of Kadamoni Gaon, Gunadeep Chetia, Moon Baruah of Morankari Gaon, Hridoi Kurmi of Dharia Boitak Gaon and Krishna Mahato of Tinsukia, without obtaining permission from the authority, have printed about 5 lakh of lottery coupon of worth Rs.100/- in the name of Barlaipuli Kadamani Namghar, and with false promise published in the Kadamani area and also circulated in the social media and collected crores of money from all over Assam and also from Arunachal Pradesh and one Bhaskar Nath of Sepon and Debajit Baruah of Chabua had cooperated and assisted those persons by giving money and wrong advice and induced general people falsely that new cars have been purchased and they have misappropriated the amount and thereby cheated the public.

5. Ms. Borah, learned counsel for the applicant submits that this Court, vide order dated 25.09.2023, was pleased to grant interim protection to the applicant and pursuant to the said order the applicant had appeared before the Investigating Officer and his statement is recorded and he has been cooperating with the investigating agency and he is no way involved with the offence alleged in the FIR and he has deposited all the sum which he has collected by selling the tickets. And therefore, Mr. Das contended to make the interim order dated 25.09.2023 absolute in the same terms and conditions.

6. Whereas Mr. Borthakur, learned Additional Public Prosecutor has vehemently oppose the petition on the ground that the Investigating Officer has collected sufficient incriminating materials to show complicity of the applicant with the offence alleged in the FIR and, therefore, Mr. Borthakur contended to dismiss the petition.

7. Having heard the submission of learned Advocates of both the sides, I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Borthakur, learned Additional Public Prosecutor.

8. It appears that the applicant had appeared before the Investigating Officer and he has been cooperating with the investigating agency. But, it appears from the case diary that the Investigating Officer has collected sufficient incriminating materials against the present applicant. Some of the co-accused are yet to be arrested and the investigation is still going on and it cannot be said from the materials collected in the case diary that custodial interrogation of the applicant is not required in the interest of investigation. His custodial interrogation is indispensable to unearth the conspiracy and to apprehend the co-accused and to recover the amount collected. Therefore, this Court is of the view that this is not a fit case to grant the privilege of pre-arrest bail to the applicant. Accordingly, the present

application for pre-arrest bail stands dismissed.

9. The interim order dated 25.09.2023 stands vacated. The case diary be returned.

JUDGE

Comparing Assistant