

GAHC010223462023



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

Case No. : AB/3394/2023

AZIZUR RAHMAN LASKAR
S/O LATE FOYZUL HOQUE LASKAR
VILL- BORJURAI, P.O. BOALIPAR BAZAR
P.S. HAILAKANDI,
DIST. HAILAKANDI, ASSAM
PIN-788155

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR H I CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 01.12.2023

1. Heard Mr. P. K. Roychoudhury, learned counsel for the petitioner. Also heard Ms. S. H. Bora, learned Additional Public Prosecutor for the State and Mr. A. Ganguly, learned counsel for the informant.

2. Learned counsel for the petitioner has submitted that by order dated

03.10.2023, the petitioner was allowed to go on interim anticipatory bail by this Court and in pursuant to the direction of the Court, the petitioner has appeared before the Investigating Officer and has co-operated in the investigation and on that ground he prays for making the interim anticipatory bail absolute.

3. On the other hand, learned Additional Public Prosecutor has produced the case diary of case of Hailakandi P.S. Case No. 232/2023 and has submitted that the petitioner has appeared before the Investigating Officer and his statement has also been recorded by the Investigating Officer. Learned Additional Public Prosecutor has submitted that though the petitioner has appeared before the Investigating Officer and his statement has been recorded by the Investigation Officer, however, from the materials collected so far by the Investigating Officer, there is a strong suspicion that the present petitioner may also be involved in the conspiracy with the other co-accused persons in committing the alleged offence.

4. On the other hand, Mr. A. Ganguly, learned counsel for the informant, has vehemently opposed the grant of bail to the present petitioner on the ground that the present petitioner is the beneficiary of the whole transaction and the money transferred from the account of Abdul Manna Hazari and the money has been transferred to his account from the account of Abdul Manna Hazari.

5. Learned counsel for the informant also submits that it is Abdul Manna Hazari himself, who has made RTGS transfer to the present petitioner, however, the RTGS slip is suspected to be stolen from the bank by another co-accused, namely, Fokrul Islam Barbhuiya.

6. Learned counsel for the informant has further submitted that as the

petitioner has not yet returned back money and has not explained as to why he has retained the said money, hence, there is a strong suspicion of his involvement in the conspiracy to commit the alleged crime and on that ground, he has opposed the grant of bail to the present petitioner.

7. I have considered the submissions made by learned counsel for the both the sides and have perused the materials on record including the case diary of Hailakandi P.S. Case No. 232/2023.

8. On perusal of the materials available on record including the case diary of Hailakandi P.S. Case No. 232/2023, it appears that though the money has been transferred from the account of the Abdul Manna Hazari to the present petitioner through RTGS mode, however, the petitioner has cooperated with the Investigating Officer and his statement has also been recorded under Section 161 of the Code of Criminal Procedure, 1973, wherein it appears that he has disclosed to the Investigating Officer about the fact of the said transfer. It also appears that he has cooperated with the Investigating Officer and there is no prayer for his custodial interrogation by the Investigating Officer.

9. On the other hand, it also appears that from the materials collected so far in the investigation that the role of Fokrul Islam Barbhuiya appears to be of the main accused in this case who has already been detained behind the bar.

10. Under the such circumstances considering the fact that the petitioner has been cooperating in the investigation, his custodial detention does not appear to be necessary for fair competition of the investigation of Hailakandi P.S. Case No. 232/2023 and, hence, the interim anticipatory bail granted to the present petitioner by order dated 03.10.2023 by this Court is hereby made absolute, subject to the following condition:-

(i) That the petitioner shall continue to cooperate in the investigation and shall appear before the Investigating Officer as and when so required for the sake of fair completion of the investigation;

(ii) That the petitioner shall not directly or indirectly make any inducement, threat or promise to any persons who may be acquainted with the facts of the case so as to dissuade such persons from disclosing such facts to the Investigating Officer or to any Court.

11. With the above observation, this anticipatory bail application is hereby disposed of.

JUDGE

Comparing Assistant