

GAHC010224222023



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

Case No. : AB/3406/2023

SHAHZAHAN ALI AHMED
S/O LATE MAYEZ UDDIN AHMED, R/O WARD NO. 9, HOWLY TOWN, P.O.
AND P.S.-HOWLY, DIST- BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. R ALI

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

06.11.2023

Heard Mr. R. Ali, learned counsel for the applicant and also heard Mr. K.K. Das, learned Additional Public Prosecutor, Assam, appearing for the State respondent as well as Mr. N. Barman, learned counsel for the informant.

2. Apprehending arrest in connection with Nalbari P.S. Case No.381/2023, under

Section 120(B)/420/384 IPC, this application, under Section 438 Cr.P.C., is preferred by applicant, namely, Shahzahan Ali Ahmed, for grant of pre-arrest bail.

3. It is to be noted here that the above noted case has been registered on the basis of an FIR lodged by one Ashik Iqbal on 03.09.2023. The essence of allegation made in the said FIR is that one Jugal Chandra Sarma, Shahzahan Ali (the present applicant) and Bahar Ali have taken a sum of ₹ 36,70,000/- during the period of 2021-2023, from the informant and his family members, promising to provide jobs in the Department of Panchayat and Rural Development, but they have neither provide any job nor returned the sum, which they have taken and thereby, cheated the informant.

4. Mr. Ali, learned counsel for the applicant submits that this is the 2nd application filed by the applicant on the ground that he has been suffering from eye problem and he has undergone an operation of retina and also he has been suffering from gallbladder and that there is no specific allegation against the applicant in the FIR and there is also no indication as to who has received the huge amount and that the applicant was transferring in the year 2022 and that the applicant is ready to cooperate with the investigating agency and therefore, it is contended to allow this petition.

5. On the other hand, Mr. K.K. Das, learned Additional P.P. has produced the case diary before this Court and submits that there is specific allegation of receiving a sum of ₹ 36,80,000/- against the applicant in the case diary and therefore, Mr. Das has opposed the petition.

6. Mr. N. Barman, learned counsel appearing for the informant also vehemently opposed the petition.

7. Having heard the submission 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 Mr. Das, learned Additional P.P.

8. It appears that the investigation of the case is almost in the same stage in which the earlier bail application for the applicant was rejected on 25.09.2023. In view of the

nature of allegation and the materials collected so far in the case diary, this Court is of the view that this is not a fit case where the privilege of pre-arrest bail can be granted to the applicant and accordingly, the petition stands dismissed.

9. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant