

GAHC010228352022



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

Case No. : AB/3322/2022

SAHIDUL ISLAM AND ANR
S/O MOIN UDDIN AHMED
VILL- CHAKLA, P.O. CHAKLA, P.S. ABHAYAPURI
DIST. BONGAIGAON, ASSAM
PIN- 783384

2: ABDUL MALEQUE
S/O MOIN UDDIN AHMED
VILL- AMBARI
P.O. AMBARI
PS. ABHAYAPURI
DIST. BONGAIGAON
ASSAM
PIN- 78338

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M U MAHMUD

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 20-04-2023

1. Heard Mr. M.U. Mahmud, learned counsel for the petitioners, **1. Sahidul Islam and 2. Abdul Maleque** and also heard Mr. K.K. Das, learned

Addl. PP, appearing for the State.

2. The petitioners have filed an application under section 438 Cr.P.C., with prayer for pre arrest bail in connection with Barpeta PS Case No.1058/2022 under section 120(B)/468/471/420/417 IPC.

3. I have considered the submissions at the bar and have also perused the case diary.

4. It is submitted on behalf of the petitioners that the petitioner No.1 Sahidul Islam is constantly harassed and humiliated due to a Facebook post uploaded by one Rajibul Ansari. Some rival parties have been trying to usurp in the post of the petitioner as the college is about to be provincialised.

5. The FIR unfolds that on 27.10.2022 at about 12.00 PM, an information was received from a reliable source regarding illegal activities by some miscreants within Barpeta PS area as well as other parts of the district. The miscreants have been applying for merit scholarships under the Ishan Udai, MCM, Pre Metric Scholarship scheme through NSP (National Scholarship Portal) for many fake students of the district. Many fake students have already received Rs.78,000/- each. On the other hand, some of them have received Rs.30,000/- each. GD entry was made by the O.C of Barpeta PS and investigation commenced.

6. During the course of enquiry Jehirul Hoque and Habibur Rahman who are shopkeepers, were picked up on 29.10.2022 and they revealed that they had applied for merit scholarships under the Ishan Udai Scheme and they had received Rs.78000/- each by posing as students of Barpeta Bongaigaon college (BB College), Kalgachia in the year 2018. Again in the current year i.e, 2022 Jehirul Islam has managed to procure Rs.30000 under the MCM scheme by posing as a student of an institute at Bangalore. They also stated that they introduced several fake students for

Nathgir college, Bangalore, Madani College of Pharmacy, Karnataka, Sowkhya Institute of Nursing Science, Karnataka etc and they also provided bank account numbers which did not belong to the students in whose name they had applied for the scholarships and thus cheated the authority

7. The other accused involved in this racket are 1. Minhajul Haque of Sila PS, 2. Rakibul Islam of Dongra PS, 3. Jakir Hussain of Howly PS, 4. Rakibul Islam of Dongra PS. 5. Riajul Karim of Guleja PS and 6. Selim Malik of Jaharpam PS.

8. The learned Addl. PP has raised serious objections stating that the statements of the witnesses have incriminated the accused persons. The petitioner No.1 is the Principal of CK College, Chakla.

9. It is submitted that the petitioner No.1 was already in custody in connection with a similar case and he was granted bail by this Court vide order dated 23.01.2023 in connection with Bail Application No.17/2023. It is also submitted that further custody will tarnish his image. It is also submitted on behalf of the petitioner No.2, that he being an employee of the same college will also suffer immensely if he is forwarded to custody.

10. It is true that a huge amount of money was siphoned off and the petitioners involvement have been reflected in the case diary. It is also submitted by the learned Addl. PP that the Principal has the OTP as a nodal officer and the other miscreants are not privy to the OTP. Once the OTP is given, then the process of disbursement of the scholarships into the bank accounts of the students gets rolling.

11. It is also submitted by the learned Addl. PP that through a middle man the office clerk and the Principal of several colleges have been working in an organized manner of procuring scholarships in the name of fake students and in this manner government funds have been diverted to private use by scheming miscreants.

12. The petitioners have been granted interim bail.

13. I have considered the import of the section. This offence is an offence against the society. Government funds meant for scholarship of students have been diverted in a dishonest and unethical manner for wrongful advantage. It is true that the petitioner No.1 was languishing in the jail in a similar case of diversion of scholarship into the accounts of other students but at this juncture, I am not inclined to grant anticipatory bail to the petitioners.

14. I have considered the gravity of the offence.

15. This is an offence against the society. The provisions of section 438 Cr.P.C., cannot be exercised in an untrammelled manner. It appears that investigation may be adversely affected if the petitioners are insulated by pre arrest bail.

16. The petition stands rejected at this stage.

17. Send back the case diary.

JUDGE

Comparing Assistant