

GAHC010239812023



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

Case No. : Bail Appln./3831/2023

SIDDHARTHA BURAGOHAIN
S/O-LATE DHARMA KANTA BURAGOHAIN, R/O- VILL.- LONGKAK
GOHAINGAON, P.O. NAZIRA, DIST. SIVASAGAR, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE P.P., ASSAM

Advocate for the Petitioner : MR. A K SAHEWALLA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

19.10.2023

Heard Mr. A.K. Sahewalla, learned counsel appearing for the accused petitioner. Also heard Mr. M. Phukan, learned Public Prosecutor, Gauhati High Court appearing for the State respondent.

2. By this petition under Section 439 Cr.P.C., the accused petitioner, namely **Siddhartha Buragohain** has prayed for grant of bail in connection with **CID P.S. Case No.14/2023** registered under Sections **120B/341/342/448/294/323/307/379/387/427/506** of the IPC read with Sections **98(a)/99(3)(4)(5)(6)** of the Assam Police Act, 2007.

3. The case diary in 5 volumes is placed before the Court.

4. Mr. A.K. Sahewalla, learned counsel appearing for the accused petitioner, submits that the F.I.R. whereupon the instant case is registered was filed approximately after 46 days after the alleged incidents without any explanation being provided for such inordinate delay which cast a shadow of doubt upon the veracity of these allegations. It has been submitted that the accused petitioner, who is the Superintendent of Police, Bajali district was not even remotely concerned with the commission of the offences alleged in the F.I.R. and as such, he is wrongly implicated in the case. Mr. Sahewalla further submits that no incriminating material has been seized by the investigating agency from the petitioner's possession and he is co-operating with the investigation. Mr. Sahewalla also submits that the accused petitioner being a permanent resident under Nazira P.S., Dist. Sivasagar, there is no chance of him jumping the course of investigation and therefore, his bail application may be considered subject to any condition(s) as this Court may deem fit and proper.

5. Opposing the bail application, Mr. M. Phukan, learned Public Prosecutor, ***inter alia***, submits that the entire series of incidents concerning the informant had taken place as per instructions of the present accused petitioner, who is the District Police Chief as Superintendent of Police. Mr. Phukan further submits that as part of conspiracy the co-accused persons took the informant to his detergent factory located at Kohara under fear of his death by encounter to

compel him to extract Rs.2.5 Crores and as a result, under the compelling situation paid him cash money and 23 signed cheques through two co-accused persons for the purpose of release of the informant from illegal police custody. According to Mr. Phukan, learned Public Prosecutor, one Sub-Inspector of Police in conspiracy with the accused petitioner manipulated the G.D. entry of Bhawanipur Police Outpost by showing release of the informant on P.R. bond on 16.07.2023 to hide his illegal detention and received one laptop extracted by the Addl. S.P. and then concealed the said laptop and 23 number of signed bank cheques through a co-accused driver. Further, Mr. Phukan submits that a sum of Rs.64,29,500/- was recovered and seized from a locked trolley bag of the accused petitioner during investigation. Therefore, Mr. M. Phukan, learned Public Prosecutor, submits that if the liberty of bail is granted to the accused petitioner, the ongoing investigation which is at its nascent stage, will be adversely affected.

6. The brief facts of the case are that a complaint was lodged before the Chief Minister of Assam by one Rabiul Islam alleging, *inter alia*, that on 16.07.2023, at around 1.30 A.M., some police personnel forcefully entered into his dwelling house by breaking its door while he and his wife were asleep. When he and his family members raised alarm, they were assaulted by the police. The police team enquired from him about some drugs and cash. As the informant told the police party that he had no knowledge of any such drugs and cash or any deal, he was physically tortured for about 2 to 3 hours and his house was searched without any search warrant. The police ransacked his house and took away his car keys, passport, mobile handsets, bank passbook, ATM Cards, house keys and other valuable documents. Thereafter, the informant along with his cousin brother and maternal uncle were forcefully taken away, initially to Bhawanipur police outpost and later on to the residence of the Superintendent of Police, Bajali. There, he was interrogated by the Superintendent of Police, Bajali in presence of the In-Charge, Bhawanipur Police Outpost about the purported illegal articles and on his denial, he was again tortured by the Superintendent of Police and asked him to deal with him directly. Further, the Additional Superintendent of Police, Bajali asked him about 80 pieces of gold

biscuits to which the informant replied that he had no knowledge and he was again physically tortured and taken back to Bhawanipur Police Outpost. There, the DSP and other police officials physically assaulted him for about 30 minutes and threatened with dire consequences. The police also ransacked the office of the informant and the house of his father-in-law without search warrant and registration of any police case. On 17.07.2023, at around 12.30 a.m., the In-Charge of Bhawanipur Police Outpost along with three other persons took the informant to the national highway near detergent factory at Kohara in a bolero vehicle without number plate and demanded an amount of Rs.2.5 Crores from him and threatened to encounter him by showing his links with Pakistani and Bangladeshi Jihadi elements. At Bhawanipur Police Outpost, the informant was forcefully made to pay a cash sum of Rs. 10 lakhs through his family members and 21 numbers of cheques of Rs. 10 lakhs each from the bank accounts of his mother. Further, the Additional Superintendent of Police, Bajali demanded another amount of Rs.2.5 crores and when the informant refused, he was released by taking signatures on blank papers and issued notice under Section 41A Cr.P.C. She also demanded money from the informant's sister through one Kishore Baruah and threatened to implicate him too in a false case, if her demands were not met. On 30.07.2023, the Additional Superintendent of Police, Bajali also asked the informant's brother-in-law to book an Innova car for her and Rs. 5 lakhs for releasing his valuable documents.

7. It is noticed that the accused petitioner has been in judicial custody since 04.09.2023, that is, for 46 days.

8. A perusal of the case diary, *inter alia*, *prima facie* reveals that the accused petitioner, who is the Superintendent of Police, Bajali assaulted the petitioner at his official residence for obtaining forceful confession and under his direction search was conducted at the office of the business establishment of the informant and at the house of the in-laws without registration of any case on 16.07.2023. On the same day night, as part of a larger conspiracy with the co-accused police officers/personnel took the informant to his detergent factory located at Kohara and put him under fear of death by causing encounter to compel him to pay an amount of Rs.2.5 Crores. On the following day, that is, on 17.07.2023, the family members of the informant handed over a cash sum of

Rs.10 lakhs and 23 number of signed cheques running several lakhs in total to get release of the informant from police custody, a part of which extorted amount was paid to the Addl. Superintendent of Police. The case diary also reveals a prima facie evidence that the accused petitioner manipulated the G.D. entry of Bhawanipur Police Outpost showing therein release of the informant on P.R. bond on 16.07.2023. On 31.07.2023, he received one laptop out of two illegally received from the relatives of the informant. It is further revealed from the case diary that the accused petitioner concealed the laptop and 23 number of signed cheques and other articles in connivance with other co-accused persons. The investigating officer has recovered two mobile phone handsets of the accused petitioner and sent the same for extraction of the content therein and recovered certain incriminating materials therefrom against him. Surprisingly, one locked trolley bag belonged to the accused petitioner was seized. When the said bag was opened with his consent in presence of a judicial Magistrate, the investigating officer found **Rs.64,29,500/-** for which he failed to account. Thus, there is abundance of prima facie incriminating material against the accused petitioner, who is the Superintendent of Police, Bajali district, Assam.

9. For the reasons set forth above, this Court is of the opinion that if the liberty of bail is granted to the accused petitioner at the present stage of investigation into the case, which prima facie manifests unholy nexus between police officers and private persons, the ongoing investigation into the case is likely to be adversely affected and that would certainly jeopardize the statutory right of a fair and unhindered investigation.

10. Accordingly, the bail application of the accused petitioner, named above, is rejected.

Return the case diary.

This disposes of the bail application.

JUDGE

Comparing Assistant