

GAHC010241932023



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

Case No. : AB/3613/2023

ARUN KUMAR BASUMATARY
S/O LATE DIPENDRA BASUMATARY
R/O B. BRAHMA ROAD,
KOKRAJHAR, P.O. AND P.S. KOKRAJHAR, DIST. KOKRAJHAR, ASSAM-
783370

VERSUS

THE STATE OF ASSAM
REP. BY THE SPECIAL PP, CHIEF MINISTERS SPECIAL VIGILANCE CELL,
ASSAM

Advocate for the Petitioner : MR. C BORUAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

06.11.2023

Heard Mr. C. Baruah, learned counsel appearing for the petitioner. Also heard Mr. M. Phukan, learned Public Prosecutor, Assam appearing for the State respondent.

2. This petition under Section 438 Cr.P.C., is filed for granting the privilege of pre-arrest bail to the petitioner, namely **Arun Kumar Basumatary** apprehending arrest in connection with **Vigilance P.S. Case No. 02/2022** registered u/ss **120B/420/468/471** of the IPC read with Sections **7(b)(c)** of the Prevention of Corruption Act, 1988.

3. The Case diary, as called for, is placed before the Court.

4. The FIR, dated 26.07.2022 was lodged by the Deputy Superintendent of Police, Chief Minister's Special Vigilance Cell, Assam before the Officer-in-Charge, Vigilance Police Station, Chief Minister's Special Vigilance Cell alleging, *inter alia*, that on 09.07.2021, anomalies were detected, which reveal that the erstwhile CHD, Kokrajhar, Sri Ajit Sarkar submitted false and fabricated proposals by forging documents for 44 nos. of scheme under Special Central Assistance to Tribal Sub-Plan and Grants under Article 275 (i) of the Constitution of India for the period 2015-2016 and 2016-2017 in the BTC areas. These 44 schemes had no existence as per website of the Ministry of Tribal Affairs, Government of India, New Delhi, neither any sanction was recorded for those schemes, but Ajit Sarkar observing all formalities issued work orders to several contractors, who carried out work and generated liabilities of Rs. 68.635 crores. Apparently, no funds were released for the work completed in relation to the fake schemes.

5. A high level inquiry was held on the complaint initiated by the Secretary of BTC and it was unearthed that the Executive Engineer, Irrigation, Kokrajhar Division, Sri Amarjyoti Deka submitted proposals against 39 schemes for the years 2015- 2016 and 2016-17 to the Council Head of Department, Irrigation, BTC, which originated from Bijni Sub-Division, Kokrajhar Sub Division, Gossaigaon Sub Division and Longa Sub Division. The Executive Engineer,

Tamulpur also submitted proposals for 4(four) schemes for the year 2016-2017 and the Executive Engineer, Irrigation at Tongla Division, submitted proposal for one such scheme for the year 2016-2017 originating from the Tangla Sub-Division. Ajit Sarkar, thereafter, scrutinized the schemes and submitted to the Secretary of Irrigation, BTC for onward submission to the Ministry of Tribal Affairs, Government of India. It was also unearthed that the schemes were shown as sanctioned and, thereafter, estimates were submitted. Administrative approval of 24 such schemes were sent directly to the Executive Engineers and the administrative approvals were accorded by Sri Arun Kumar Basumatary, Sri Dinesh Boro and Sri Arun Chandra Deori.

6. It was also announced that Ajit Sarkar issued technical sanctions against 22 schemes, out of 24 such schemes against the administrative approval. He also floated tender and prepared comparative statements of the bidders. On getting work orders, the contractors proceeded with the execution of the allotted work against 13 schemes and created financial liabilities for an amount of Rs. 58,65,75,630/-.

7. Later, as per the report, the fund release orders were examined and were found to be counterfeit, fake and forged. It was also unearthed that no such file numbers existed in the Ministry as mentioned on the purported sanctioned letters and no such project was sanctioned by the Ministry of Tribal Affairs to the BTC under Special Central Assistance to Tribal Sub Plan (SCA to TSP) and Grants under Article 275 (i) of the Constitution of India during the period 2015- 2016 and 2016-17. The enquiry revealed that Ajit Sarkar submitted detailed estimate of the schemes to BTC for according administrative approval along with Photostat/ printed copies of the sanctioned orders without verifying its genuineness. It is alleged that he hatched up a criminal conspiracy with Sri

Biswajit Sharma and Sri Gitartha Darshan Baruah and managed and prepared fake sanction orders with malafide intention and used the fake sanctioned orders as genuine. Although Gitartha Darshan Baruah was an outsider, he was engaged by Sri Biswajit Sarma in such nefarious activities. Said Gitartha Darshan Baruah sent 10(Ten) nos. of sanction orders via personal e-mail purported to be issued by the Ministry of Tribal Affairs, Govt. of India, New Delhi and printed out the emails and gave to Ajit Sarkar which fake sanction orders were used as genuine. It was further revealed that the present accused petitioner, Shri Dinesh Boro, the then Joint Secretary and Shri Anil Deori, the then Secretary issued administrative approval against 24 nos. of schemes depending on fake sanction order without checking the official records and the official website for drawing pecuniary benefits.

8. Perusal of the case diary prima facie reveals that the petitioner, who was the then Deputy Secretary, Irrigation, BTC, Kokrajhar, accorded Administrative Approval against 10(ten) approximately out of 44 nos. of scheme without verifying the genuineness of sanction order depending on the detailed estimates submitted by one Ajit Sarkar, the then CHD, BTC, Kokrajhar. It is also revealed that the accused petitioner in connivance with another two officials issued administrative approval against 25(twenty five) nos. of scheme without checking the official records and the official website of the Ministry of Tribal Affairs, Government of India, the sanction orders against which were later on found to be fake.

9. The petitioner has already got his statement recorded under Section 161 Cr.P.C. and co-operating with the investigating officer. Upon hearing the learned counsel for both sides and considering the pros and cons of the materials available on the case diary, this Court is of the opinion that custodial

interrogation of the petitioner, who is stated to be aged about 64 years and a retired government employee, may not be required in the interest of the ongoing investigation into the case.

10. Accordingly, it is provided that in the event of arrest, the petitioner, named above, shall be released on pre-arrest bail, in connection with the above noted case on furnishing bail bond of **Rs. 50,000/- (Rupees Fifty Thousand)** with one surety of like amount to the satisfaction of the arresting authority, subject, of course, to the following conditions:

- (i) That the petitioner shall co-operate with the investigating officer as when required; and
- (ii) That the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer.

Return the case diary.

This disposes of the anticipatory bail application.

JUDGE

Comparing Assistant