

GAHC010249502023



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

Case No. : Bail Appln./4013/2023

MOIN UDDIN AHMED
SON OF LATE HAJI TAYABUR RAHMAN, RESIDENT OF LANKA PATTI,
WARD NO.4, P.O. AND P.S. LANKA, HOJAI, ASSAM, PIN- 782446

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE LEARNED PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR A DAS

Advocate for the Respondent : PP, ASSAM

BEFORE

HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

10.11.2023

Heard Mr. P. Deka, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor, Assam.

This application under section 439 of the Code of Criminal Procedure,

1973 has been filed by the petitioner, namely, Moin Uddin Ahmed, who has been detained behind the bars since 02.10.2023 in connection with Lanka P.S. Case No. 409/2023 under Sections 420/406/409/468/471 of the Indian Penal Code.

The accusation against the present petitioner, in brief, is that one Akhtar Uddin, the then President of the Managing Committee of Lachit Pathar Jalilia M. E. Madras lodged an FIR before the Superintendent of Police, Hojai, Sankardev Nagar, *inter-alia*, stating that the petitioner being the Headmaster of Lachit Pathar Jalilia M. E. Madras have embellished the money under various schemes of the Government by forging the signatures of the informant in the cheques shown to have been issued jointly by petitioner and the accused thereby drawing excess money.

It is also alleged in the FIR that the petitioner bank is also found to take bribe for issuing fake certificate.

Learned counsel for the petitioner prior to lodging of the FIR by the informant, the present petitioner has lodged a complaint against the informant who was the President of Lachit Pathar Jalilia M. E. Madras regarding his illegal activities before the Block Elementary Education Officer, Lanka, Hojai and it is lodging of complaint by the present petitioner that he lodged false FIR on the last day of his tenure of his President of the Lachit Pathar Jalilia M. E. Madras.

It is submitted by learned counsel for the petitioner that the petitioner was thereafter removed from the post of President.

Learned counsel for the petitioner has also denied the allegations levelled against him in the FIR and has further submitted that considering the period of detention undergone by the petitioner, he may be allowed to go on bail.

On the other hand, learned Additional Public Prosecutor has produced the case diary of Lanka P.S. Case No. 409/2023 and has submitted that there are

incriminating materials against the present petitioners in the case diary.

However, he submits that learned Additional Public Prosecutor on perusal of the case diary, he find no endorsement to suggest the cheques in question were send for FSL examination. However, the scanned copies of the cheques are available in the case diary.

I have considered the submissions made by learned counsel for both the sides and have perused the case diary. It appears that till now the Investigating Officer has not taken steps for examination and the statement of the present petitioner under Section 161 is not available in the case diary.

Considering this fact as well as considering the fact that the petitioner has already been detained behind the bars since last 40 days which appears to be a sufficient period of time for making progress in the investigation, this Court is of the considered opinion that his further custodial detention of the present petitioner does not appear to be necessary for fair completion of the investigation of this case, if he co-operates in the investigation.

Hence, the above named petitioner is hereby allowed to go on bail of Rs. 30,000/- with a suitable surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Hojai, with following condition that:-

(i) within seven days from the date of release on bail the petitioner shall appear before the Investigating Officer and shall co-operate in the investigation; and

(ii) the petitioner shall not directly or indirectly make any inducement threat or promise to the victim or to any person who may be acquainted with the facts of the case so as to dissuade such person/victim to disclose such facts before the Investigating Officer or before the Court;

With the above observations, this bail application is hereby disposed of.

Send back the case diary.

JUDGE

Comparing Assistant