

GAHC010250722022



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

Case No. : AB/3647/2022

ATOWAR RAHMAN
S/O LT. EACHAM ALI
R/O NO. 1 BARUA PATHAR
P.S. BOKO
DIST. KAMRUP, ASSAM
PH. 9864080306

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR D MEDHI

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

03.01.2023.

Heard Mr. K. Thakur, learned counsel for the applicant. Also heard Mr. RJ

Baruah, learned Addl. P.P., Assam appearing for the State respondent.

Apprehending arrest in connection with the Chaygaon P.S. Case No.04/2022, corresponding to G.R. Case No.664/2022, under Sections 120B/147/406/420 of the IPC, read with Section 66(D) of the I.T. Act, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicant, namely, Atowar Rahman, for grant of pre-arrest bail.

The said case has been registered on the basis of an F.I.R., lodged by one Ayan Ali on 04.11.2022. The allegation made in the said FIR is that one Nabajit Deka, Officer-in-Charge of Jorsimolu Police Out Post, Jiyaar Rahman, Subject Teacher of Majortup HS School, Faiznur Rahman, Computer Teacher of Majortup HS School, Bhargav Kalita, Subject Teacher of Majortup HS School, Ali Akbar, Head Teacher of No.1 Saralpara Primary School and 6/7 other persons were involved in fraud and cheating by launching a chit fund namely, AGA, to earn easy money by misappropriating money from the account of general public and they have been making publicity about the same in various places of Chhaygaon Goroimari area and thereby misused their official positions in making publicity of AGA Chit Fund.

Mr. K. Thakur, learned counsel for the applicant submits that this Court was pleased to extend interim protection to the applicant vide order dated 09.12.2022 but prior to granting of interim protection, the applicant in pursuant to one notice, issued under Section 41A of the CrPC, has appeared before the I.O. and his statement has already been recorded and that he has been cooperating with the investigating agency and therefore, it is contended to make the interim order dated 09.12.2022 absolute, in the same terms and conditions.

On the other hand, Mr. RJ Baruah, learned Addl. P.P., Assam, by producing the Case Diary before this Court, submits that the materials collected so far in the case diary fails to reveal complicity of the applicant with the offence alleged in the FIR.

Having heard the submissions 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 produced before this Court with the assistance of Mr. RJ Baruah, learned Addl. P.P., Assam.

It appears that the applicant has been extending cooperation with the investigating agency and it also appears from the case diary that the materials collected so far, are quite inadequate to show his complicity with the offence alleged in the FIR. Considering above, and also considering the submission of learned Advocates of both sides, this Court is of the opinion that custodial interrogation of the applicant seems to be unwarranted, in the interest of investigation.

Accordingly, this Court is inclined to make the interim order, dated 09.12.2022, absolute in the same terms and conditions.

In terms of above, this anticipatory bail application stands disposed of.

The Case Diary be sent back.

JUDGE

Comparing Assistant