

GAHC010254012022



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

Case No. : AB/3687/2022

DIBYAJYOTI BORDOLOI
S/O LT. SASHI KANTA BORDOLOI
R/O BISHNURABHA NAGAR,
P.O. JALUKBARI, P.S. DEVKOTA NAGAR, MALIGAON, GUWAHATI-781011

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR G K DEKA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 10-01-2023

Heard Mr. G.K. Deka, learned counsel for the petitioner and Mr. B. Sharma, learned Additional Public Prosecutor for the respondent State of Assam.

2. By this application under Section 438, Code of Criminal Procedure, 1973 [CrPC], the petitioner viz. Sri Dibyajyoti Bordoloi has approached this Court

seeking the benefit of pre-arrest bail, apprehending his arrest, in connection with Panbazar Police Station Case no. 263/2022 registered for offences punishable under Sections 406/409, Indian Penal Code [IPC].

3. The Director of Library Services, Assam has lodged the First Information Report [FIR] on 26.10.2022 against one Smt. Rumi Goswami stating that on being directed by the Additional Secretary, Cultural Affairs Department, Government of Assam and approval accorded by the Departmental Minister to lodge an FIR in respect of the corruption/illegal transactions done by the former Director of Library Services, Assam, he has in the capacity of the Director of Library Services, Assam has lodged the FIR. The FIR has been filed with the request to cause investigation as regards the alleged corruption/illegal transactions in accordance with law.

4. Mr. Deka, learned counsel for the petitioner has submitted that the petitioner is currently serving as a Senior Assistant in the Directorate of Library Services, Assam and his responsibilities are limited up to conclusion of a tender process but he has no role in the disbursement of funds to the contractors. On the other hand, the allegations regarding misappropriation/embezzlement are in respect of the fund sanctioned to the contractors of the Directorate of Library Services, Assam, which stage comes subsequent to the conclusion of the tender processes. Mr. Deka has further submitted that the petitioner, prior to preferring the instant application, appeared before the Investigating Officer of the case on 27.11.2022. It is also his submission that the contents of the FIR did not specifically indicate regarding involvement of the petitioner in any direct manner as the FIR has mentioned about illegality in transactions of funds by the former Director of Library Services, Assam i.e. Smt. Rumi Goswami.

5. The petitioner was provided interim protection by order dated

14.12.2022 with a direction to him to appear before the Investigating Officer [I.O.] of the case within 7 [seven] days from 14.12.2022. The learned counsel for the petitioner has submitted that in deference to the order dated 14.12.2022, the petitioner has appeared before the I.O. of the case within the stipulated time period.

6. Mr. Sharma, learned Additional Public Prosecutor has submitted that the materials available in the case diary, collected during the course of investigation carried out so far, do not go to indicate the presence of sufficient incriminating materials against the petitioner necessitating his custodial interrogation.

7. The materials in the case diary also go to show that the petitioner has appeared before the I.O. of the case in deference to the order dated 14.12.2022 and has, thereby, joined the investigation. The statement of the petitioner has also been recorded under Section 161, CrPC.

8. Having regard to the fact that there is absence of incriminating materials against the petitioner connecting him to the commission of the offences pertaining to illegal transactions in the form of fraudulent disbursement of funds to the contractors and the fact that the petitioner has already joined the investigation by appearing before the I.O. of the case, this Court is of the considered view that custodial interrogation of the petitioner for the purpose of carrying out further investigation of the case is not necessary and his release on pre-arrest bail, at this stage of investigation, is not likely to bring any adverse effect in the further investigation of the case, provided the petitioner continues to extend his assistance and co-operation in the further investigation of the case.

9. Accordingly, the interim protection granted to the petitioner by order dated 14.12.2022, is made absolute, subject to the condition nos. [1], [2] & [3], set forth already in the said order dated 14.12.2022.

10. The bail application stands disposed of in the aforesaid terms.

JUDGE

Comparing Assistant