

GAHC010255302023



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

Case No. : AB/3867/2023

ABHIJIT KHANIKAR
S/O LAKHINATH KHANIKAR
R/O VILL- AKAABARUATICHUK
P.S. SILAPATHAR
DIST. DHEMAJI, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. T CHUTIA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

29.11.2023

Heard Mr. T. Chutia, learned counsel for the petitioner. Also heard Ms. S.H. Bora, learned Additional Public Prosecutor, Assam.

This application under Section 438 of the Code of Criminal Procedure,

1973 has been filed by the petitioner, namely, Abhijit Khanikar, who is apprehending his arrest in connection with Silapathar P.S. Case No. 211/2023 under Section 341/386/506/34 of the Indian Penal Code.

The gist of accusation against the present petitioner is that on 14.10.2023, one Amal Kr. Gogoi has lodged an FIR before the Officer-In-Charge of Silapathar Police Station, *inter-alia*, alleging that on 13.10.2023 at about 11:00 PM, when the first informant was transporting some bulls from Simen Chapori towards Silapathar, two persons, namely, one Jayantajit Bordoloi and the present petitioner intercepted the vehicle of the informant with their Ertiga vehicle and demanded Rs. 50,000/- from the informant after threatening to kill him and being compelled the first informant transferred Rs. 33,000/- through 'Google Pay' and 'Phone Pay' to Jayantajit Bordoloi.

Learned counsel for the petitioner has submitted that the petitioner was not present at the place of incident. However, his vehicle was used by one Jayantajit Bordoloi.

It is submitted by learned counsel for the petitioner that the money has also not been transferred to the account of the present petitioner apart to the account of Sri Jayantajit Bordoloi.

Learned counsel for the petitioner has also submitted that from the transaction detail of the account of Jayantajit Bordoloi, it appears that the money was transferred to the account of the said Jayantajit Bordoloi only at 1:01 AM and thereafter, which according to the present petitioner the informant has deliberately paid lately only to implicate the said Jayantajit Bordoloi.

However, it is also submitted by the learned counsel for the petitioner that even if money has been transferred the same has not been transferred to the account of the present petitioner.

On the other hand, learned Additional Public Prosecutor, Assam has submitted that there are incriminating materials against the present petitioner in the case diary. It appears that he was also present at the place of occurrence when the informant was threatened.

It is also submitted that though the money was transferred to the account of another co-accused, namely, Jayantajit Bordoloi, there are allegations of the present petitioner of threatening the informant for making such transfer of money.

Learned counsel for the petitioner has also submitted that in the meanwhile, the Investigating Officer has recorded the statement of relevant witnesses under Section 161 of the Code of Criminal Procedure, 1973.

I have considered the submission made by learned counsel for the petitioner as well as learned Additional Public Prosecutor and has perused the case diary of Silapathar P.S. Case No. 211/2023 which was called for in connection with this case. It appears from record that though the witnesses whose statement has been recorded by the Investigating Officer under Section 161 of the Code of Criminal Procedure, 1973 has implicated the present petitioner also. However, it also appears that the informant has transferred the money to the co-accused Jayantajit Bordoloi and not to the present petitioner and considering the fact that the relevant witnesses has been examined by the Investigating Officer and the petitioner is ready to co-operate in the trial, his custodial detention may not be necessary if he otherwise, co-operates in the investigation.

In view of above, the petitioner, namely, Abhijit Khanikar, is hereby directed to appear before the Investigating Officer of Silapathar P.S. Case No. 211/2023 within a period of 10(ten) days from the date of this order and co-

operate in the investigation. If he does so, within the stipulated period of time, in the event of his arrest in connection with Silapathar P.S. Case No. 211/2023, the above named petitioner shall be allowed to go on interim bail of Rs. 30,000/- with a suitable surety of like amount to the satisfaction of the arresting authority, subject to the conditions that:-

(i) the petitioner shall not directly or indirectly make any inducement threat or promise to the informant or to any other persons who may be acquainted with the facts of the case so as to dissuade such person from disclosing such facts before the Investigating Officer or to any Court; and

(ii) the petitioner shall co-operate in the investigation.

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

Send back the case diary.

JUDGE

Comparing Assistant