

GAHC010255772023



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

Case No. : AB/3855/2023

SOMESWAR NATH
S/O KOLIRAM NATH
R/O K.B. ROAD, WARD NO. 12,
BORMURIA TINIALI
P.S. NORTH LAKHIMPUR,
DIST. LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. B CHOWDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

16.11.2023

Heard Mr. B. Chowdhury, learned counsel for the applicant and Mr. K.K. Parasar, learned Additional Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with the **Bihpuria P.S. Case No. 181/2023**, under Sections 420/406/468/34 of the IPC, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicant namely, **Someswar Nath** for grant of pre-arrest bail.

3. The above noted case has been registered on the basis of an FIR lodged by one Minakhi Hazarika, on 12.10.2023. The essence of allegations made in the FIR is that her own brother, Shri Munindra Hazarika and one Sri Debananda Saikia have received a sum of Rs. 7,50,000/- from her for providing her a job of School Teacher, in a Government school and after some days of receiving the amount, they have handed over her one appointment letter and when she reported the Head Master of the said school for joining, she came to know that the appointment letter, so handed over to her, is a fake document prepared with forged seal and signature of the officials and thereafter, on being asked, the accused persons have failed to return the amount.

4. Mr. Chowdhury, learned counsel for the applicant submits that the name of the applicant finds no mention in the FIR and that the applicant was an employee of the Office of District Elementary Education Officer, North Lakhimpur and thereafter, the applicant was transferred to the Office of District Elementary Education Officer, Nalbari. Mr. Choudhury further submits that the applicant is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, by producing the Case Diary before this Court, Mr. Parasar, learned Additional Public Prosecutor submits that the IO has collected sufficient incriminating materials against the applicant and that the applicant is the person who has received a sum of Rs. 7,50,000/- from one of the co-accused namely, Debananda Saikia. Mr. Parasar further submits that some of the co-accused are yet to be arrested and that the investigation is still going on and therefore, it is contended to dismiss the petition.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition as well as the documents placed on record and also perused the Case Diary produced before this Court with the assistance of Mr. Parasar, learned Additional Public Prosecutor.

7. The case diary indicates that the IO has collected sufficient incriminating

materials against the applicant and that he has received a sum of Rs. 7,50,000/- from one of the co-accused namely, Debananda Saikia. The case diary also indicates that the investigation is still going on and some of the co-accused are yet to be arrested.

8. In view of above, this Court is of the view that this is not a fit case where the privilege of pre-arrest bail can be extended to the applicant and therefore, the same is dismissed, at this stage.

9. The case diary be returned.

JUDGE

Comparing Assistant