

GAHC010258082022



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

Case No. : AB/3774/2022

RAFIKUL HUSSAIN
S/O- SORIFUL HUSSAIN, PERMANENT R/O- VILL- GHAHIGAON, P.S.
SOOTEA, DIST.- SONITPUR (ASSAM), PRESENT R/O- EWS SARAIGHAT
HOUSING COLONY, BLOCK- E, GHY, BELTOLA, KAMRUP (M), ASSAM-
781028

VERSUS

THE STATE OF ASSAM
REP. BY P.P., ASSAM

Advocate for the Petitioner : MR. N J GOGOI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

30.01.2023

Heard Mr. N.J. Gogoi, learned counsel for the petitioner as well as Mr. B. Sarma, learned Addl. P.P. for the State.

By this application under section 438 of the Cr.P.C., the petitioner, namely, Rafikul Hussain is seeking bail in connection with Dispur P.S. Case No. 2087/2022,

under sections 120[B]/420/468/471 of the IPC, and corresponding to GR No. 7619/2022.

It is submitted on behalf of the petitioner this petition is filed on a new ground that his wife is suffering from psychological problem and he has marked the advice from LGB RIM, Tezpur regarding the condition of his wife as Annexure-4 and tagged along with the petition.

It is alleged that under his leadership three rooms were booked in a lodge "G.B. Guest House" situated near Pratiksha Hospital. These rooms were used for illegal activities like preparing forged documents, appointment letters, certificates in the name of Health and Social Welfare of the Govt. Of Assam for creating pecuniary advantage in their favour by cheating unemployed youths of Assam by supplying fake certificates as genuine. On a tipoff, a search operation was conducted by the investigation agency. Four persons were apprehended from room no. 108 and three persons were apprehended from room no. 4 of "G.B. Guest House". Incriminating materials like Bank passbook, Voter ID, ATM Card etc were also recovered from room no. 2 which was occupied by Rafikul Hussain since 14.08.2022 and one computer along with CPU, keyboard, mouse etc. was also recovered from room no. 2. The accused Jayanta Das is the owner of the computer and he was arrested in connection with this case. Four vehicles were also recovered from the guest house.

The learned Addl. P.P. has raised objections stating that a bail order may insulate the petitioner against proper investigation. Investigation may be adversely affected. There are cogent materials against the petitioner in the case diary and his earlier bail petition preferred by the present petitioner was rejected after perusal of the case diary.

On the ground that the earlier bail petition was rejected after perusal of the case diary this bail petition ought to be rejected.

I have given my anxious consideration to the submissions at the Bar. The

petitioner is alleged of having taken pecuniary advantage for himself by cheating unemployed youths of Assam. He is alleged with an offence against the society. The modus-operandi as alleged depicts that the offence was committed by an organized network in a cool, calculated and organized manner. In the event the petitioner is enlarged on being insulated by an order of pre-arrest bail, investigation may be adversely affected. Tampering of evidence and interpolation of documents both digital and physical cannot be ruled out even at this stage.

Considering the magnitude of the offence, the nature and accusation, the role allegedly played by the petitioner, it is held that there is a strong prima facie case against the petitioner to reject his prayer for bail. At this stage there appears to be no justified ground to extend the privilege of anticipatory bail to the petitioner. Accordingly, the prayer for pre-arrest bail is rejected at this stage.

Case diary is returned.

Application stands disposed of.

JUDGE

Comparing Assistant