

GAHC010260252023



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

Case No. : AB/3909/2023

PRASANTA HAZARIKA
S/O LATE HIRA HAZARIKA
R/O BORBORUAH
P.S. BORBORUAH
DIST. DIBRUGARH, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M BISWAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

08.12.2023

Heard Mr. M. Biswas, learned counsel for the applicant and Mr. B. Sarma, learned Special Public Prosecutor for the Forest Department.

2. Apprehending arrest in connection with **BI (EO) P.S. Case No. 21/2023**, under Sections 120(B)/379/411/119 of the Indian Penal Code, read with Sections 35/41 of Assam Forest Regulation Act, this application under Section 438 Cr.P.C. is preferred by the applicant, namely, **Prasanta Hazarika**,

for grant of pre-arrest bail.

3. The above noted case has been registered on the basis of one FIR lodged by one Sanjib Kumar Goswami, Inspector of Police, BI(EO), Assam on 25.08.2023. The essence of allegation made in the said FIR is that on the basis of news item published in Axomia Pratidin on 04.03.2023, a preliminary enquiry was conducted by Shri Amrit Ch. Kalita, Dy.S.P. CM's SVC, Assam and a report, vide PE No. 05/2023, was submitted, which indicates that several persons, namely, Dandinath Missong, Dimbeswar Mipun, Memsura Missong, Mona Missong and Chandra Missong of Village Dadhiya, under Chabua P.S. are involved in smuggling timbers illegally from Dibru- Saikhowa National Park. The report also indicates that several saw mills, namely, Khan Saw Mill, Santosh Kumar Dhelia Saw Mill, Raj Saw Mill, Rupai Saw Mill, Asu Das, Mukti Singh, Ramavater Saw Mill, Das & Das Saw Mill, which are set up on the river bank of Brahmaputra, near Dibrugarh Town, collects the logs from the river and transported it after sawing. The report further indicates that one Pradip Medhi, Writuraj Buragohain, Raju medhi, Kalyan Sonowal, Mohan Sonowal, Hemanta Moran, Gunin Gogoi, Dharani Gogoi, Sanjoy Sharma and Wajid Khan of Tinsukia district have been running timber business covering Assam Arunachal border area. Further, the report indicates that local Forest Officials of Sadiya, Doom Dooma, Talap, Tinsukia, Dibrugarh, Guijan Range and Saikhowa Wildlife Range and Police Officials are aware about such illegal trade.

4. Mr. Biswas, learned counsel for the applicant submits that this is the second bail application preferred by the applicant on the grounds that certain fact could not be placed before this Court at the time of hearing of AB No. 3203/2023, that the applicant was the Investigating Officer in several forest cases of Dibrugarh district and that the marriage of his only son will be

solemnized on 15.12.2023, and reception will be held on 18.12.2023. Mr. Biswas further submits that the occurrence took place in the Tinsukia district, but, the applicant has been serving in the Dibrugarh district and he is no way involved with the offence alleged in the FIR. Mr. Biswas also submits that after rejection of the earlier anticipatory bail application dated 18.10.2023, pursuant to a notice received from the IO concerned, the applicant had appeared before the IO on two occasions i.e. 21.11.2023 and 04.12.2023, and he has been cooperating with the investigating agency and therefore, it is contended to allow this application.

5. On the other hand, Mr. Sarma, learned Special P.P. has produced the case diary before this Court and confirmed that the applicant had appeared before the IO on two occasions i.e. 21.11.2023 and 04.12.2023, and he has been cooperating with the investigating agency. Mr. Sarma further submits that earlier anticipatory bail application was rejected after perusing the case diary and that in the case diary, there are sufficient incriminating materials against the present applicant and therefore, it is contended to dismiss this second anticipatory bail application also.

6. It appears that vide order dated 18.10.2023, this Court was pleased to dismiss the earlier anticipatory bail application, being AB No. 3203/2023, after perusing the case diary. Further, it appears that after rejection of the earlier anticipatory bail application dated 18.10.2023, pursuant notice received from the IO concerned, the applicant had appeared before the IO on two occasions i.e. 21.11.2023 and 04.12.2023, and he has been cooperating with the investigating agency. It also appears from the Annexure-10 that the marriage of the applicant's only son will be solemnized on 15.12.2023 and the reception will be held on 18.02.2023.

7. Considering the fact that after rejection of the earlier anticipatory bail application dated 18.10.2023, the applicant had appeared before the IO on two occasions i.e. 21.11.2023 and 04.12.2023, and that he has been cooperating with the investigating agency and also considering the change of circumstances and also the marriage of the son of the petitioner to be solemnized on 15.12.2023, this Court is inclined to allow this application.

8. Accordingly, it is provided that in the event of arrest of the applicant, in connection with **BI (EO) P.S. Case No. 21/2023**, under Sections 120(B)/379/411/119 of the Indian Penal Code, read with Sections 35/41 of Assam Forest Regulation Act, he shall be enlarged on pre-arrest bail, on his executing a bond of Rs. 50,000/- only, with one surety of like amount to the satisfaction of the arresting authority.

9. The above privilege is, however, subject to the following conditions:

(i) that the applicant shall make himself available for interrogation by the Investigating Officer as and when required;

(ii) that the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer; and

(iii) that the applicant shall not leave the jurisdiction of the learned **Chief Judicial Magistrate, Kamrup [M] at Guwahati**, without prior permission.

10. The case diary be returned.

JUDGE

Comparing Assistant