

GAHC010260532022



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

Case No. : AB/3736/2022

LAL MOHAN DAS
S/O LATE RADHARAMAN DAS
R/O VILL- DEBI GARH
P.O. RAKESHNAGAR
P.S. AND DIST. KARIMGANJ, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR H R A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 24-03-2023

- 1.** Heard Mr. R. A. Choudhury, learned counsel for the petitioner and Mr. P.S. Lahkar, learned Addl. P.P. for the State.
- 2.** The petitioner Lal Mohan Das has filed an application under Section 438 Cr.PC with

prayer for pre-arrest bail in connection with Karimganj P.S. Case No. 639/2022 under Sections 420/409 IPC.

3. I have considered the submissions at the Bar. The allegation against the petitioner is that the petitioner has misappropriated the funds discharged in favour of the school which does not exist and has mentioned about students of his school, who are not in fact enrolled and thus the petitioner procured benefit of mid-day meal for 94 students. On the other hand it is alleged that the petitioner's wife lodged an FIR against the present informant Sri Paresh Chandra Das with the same allegation.

4. It is submitted that the petitioner is on interim bail and he has cooperated with the investigation and his statement has been recorded. I have perused the Case Diary. The statement of the petitioner is not to be found in the Case Diary.

5. The learned Addl. P.P. has raised serious objection against the bail petition stating that a status report regarding the case has been submitted by the IO. It is submitted that it is apparent from the status report that the register and file regarding the mid-day meal has been retained by the petitioner. The school is a bamboo shed covered by CI sheets without any fencing. The school is a venture school and there is only one table and one chair without any desk and benches in the school. Physically without any school, the petitioner has been procuring the benefit of mid-day meal of 94 students from August, 2022 to September, 2023. It is submitted that there are incriminating evidence regarding the petitioner. The statements of the witnesses implicates the petitioner.

6. It is submitted that the petitioner has been falsely implicated with malafide intention by the informant because the petitioner's wife had lodged an FIR against the present informant with allegation of rampant corruption. When the number of students decreased from 94 to 20, the petitioner had already informed the District Programme Manager regarding the decrease in the number of students and the District Programme Manager was requested to provide mid-day meal for only 20 students. The letter of the petitioner to the District Programme Manager is marked as Annexure-6 and the copy has been received by the office of the District Programme Manager. It is submitted on behalf of the petitioner that the informant has a fair price shop and he used to supply mid-day meals through his fair price

shop to different schools in the locality. The petitioner's wife being the Head Teacher noticed the anomalies in the supply of mid-day meal through the informant's fair price shop and she filed an application before the BEEO on not getting the required quantity of rice allotted for the students of the school from the fair price shop of the informant. To wreak vengeance, the informant lodged this false case against the present petitioner.

7. I have considered the submissions at the Bar with circumspection. I have also scrutinised the Case Diary. Although the petitioner has appeared before the IO and has cooperated with the investigation but his statement could not be found in the Case Diary. Moreover, the allegation against the petitioner is of a grave nature. I have considered the role of the petitioner and the gravity of the offence alleged. At this juncture, there appears to be no *prima facie* case to grant anticipatory bail to the petitioner.

8. Prayer for anticipatory bail is rejected at this stage of investigation.

Send back the Case Diary.

JUDGE

Comparing Assistant