

GAHC010260772022



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

Case No. : AB/3754/2022

MINHAZUL HOQUE
S/O ASAN UDDIN @ ASAN ALI
R/O VILL- SHILA
P.S. AND DIST. BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR M AHMED

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

Date : 14-02-2023

Heard Mr. M. Ahmed, learned counsel for the applicant. Also heard K. K. Das, learned Additional Public Prosecutor representing the State respondent.

This application is filed under Section 438 of the Code of Criminal Procedure, 1973, praying for granting pre-arrest bail to the accused/applicant in connection with Barpeta P. S. Case No.1058/2022, registered under Section 120(B)/468 /471/420/ 417 of the Indian penal Code.

Case Diary has been received, and I have perused the same.

It is submitted by the learned counsel for the applicant, Mr. M. Ahmed, that though in the FIR the name of the applicant has been reflected, but he is not at all involved in the alleged offence. The applicant is a small business-man, who is running a Diagnostic Centre at Barpeta town along with two other co-accused. It is also submitted that the police has falsely implicated the applicant in this case on the basis of his earlier arrest in connection with Barpeta P.S. Case No.309/2021 on the same allegation as alleged in this case. Hence, the allegation made upon the accused/applicant is totally false and concocted

It is also submitted that the applicant has already appeared before the IO to submit his documents. The applicant is the permanent resident of Barpeta District, Assam and there is no chance of absconding. Further, he prays for grant of the privilege of pre-arrest bail and also states that he will co-operate the

investigating agency, as and when required, if, the pre-arrest bail is granted to him.

In this context, Mr. K. K. Das, learned Additional Public Prosecutor submits that from the Case Diary and the statement of the witnesses, it reveals that there are sufficient incriminating materials available against the accused/applicant, and he is running a racket of obtaining Scholarship's in the name of the fake students. It is also submitted that the accused/applicant along with the Principal and the Assistant, are preparing some fake identity card in the name of the fake students and uploads documents in the concerned Portal for obtaining Scholarship. Thus, Mr. K. K. Das, learned Additional Public Prosecutor has raised objection in the prayer made by the applicant.

Considering the submissions made by the learned Advocates of both sides, I have perused the Case Diary, which reveals that the IO has collected sufficient incriminating materials against the present accused/applicant showing his direct involvement in the alleged offence and the investigation is still in process and there is also probability of involvement of other culprits in the entire racket of fake scholarship scam. More so, the statement of the witnesses recorded under Section 161 and 164 Cr.P.C., also reveals his *modus operandi* in this case.

So considering the entire facts and circumstance of this case as well as the materials available in the case diary and statement of the witnesses recorded by the I.O., I find that further custodial interrogation of the accused/applicant is necessary to unearth some more facts of the case and accordingly, I am of the view that this is not a fit case where the privilege of

pre-arrest bail can be granted to the accused/applicant at this stage and accordingly, the same stands rejected.

In view of above, this Anticipatory Bail application stands disposed of.

Case Diary be returned.

JUDGE

Comparing Assistant