

GAHC010228352022



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

Case No. : AB/3784/2022

RAKIBUL ISLAM
S/O- EAKUB ALI
VILL- DONGRA
P.O- DHAKUA
P.S AND DIST- BARPETA
PIN- 781309

VERSUS

THE STATE OF ASSAM
REP. BY THE PP
ASSAM

Advocate for : MR. A ROSHID
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 20-04-2023

1. Heard Mr. M.U. Mahmud, learned counsel for the petitioner, ***Rakibul Islam*** and also heard Mr. K.K. Das, learned Addl. PP, appearing for the State.
2. The petitioner has filed an application under section 438 Cr.P.C., with

prayer for pre arrest bail in connection with Barpeta PS Case No.1058/2022 under section 120(B)/468/471/420/417 IPC.

3. I have considered the submissions at the bar and have also perused the case diary.

4. It is submitted on behalf of the petitioners that the petitioner No.1 Sahidul Islam is being constantly harassed and humiliated due to a Facebook post uploaded by one Rajibul Ansari. Some rival parties have been trying to usurp in the post of the petitioner as the college is about to be provincialised.

5. The FIR unfolds that on 27.10.2022 at about 12.00 PM, an information was received from a reliable source regarding illegal activities by some miscreants within Barpeta PS area as well the nearby areas of the district. The miscreants have been applying for merit scholarships under the Ishan Udai, MCM, Pre Metric Scholarship scheme through NSP (National Scholarship Portal) for many fake students of the district. Many fake students have already received Rs.78,000/- each. On the other hand, some of them have received Rs.30,000/- each. GD entry was made by the O.C of Barpeta PS and investigation commenced.

6. During the course of enquiry Jehirul Hoque and Habibur Rahman who are shopkeepers, were picked up on 29.10.2022 and they revealed that they had applied for merit scholarship under the Ishan Udai Scheme and they have received Rs.78000/- each by posing as students of Barpeta Bongaigaon college (BB College), Kalgachia in the year 2018. Again in the current year i.e, 2022 Jehirul Islam has managed to procure Rs.30000 under the MCM scheme by posing as a student of an institute at Bangalore. They also stated that they introduced several fake students for Nathgir college, Bangalore, Madani College of Pharmacy, Karnataka, Sowkhyia Institute of Nursing Science, Karnataka etc and they also provided

bank account numbers which did not belong to the students in whose name they had applied for the scholarships and thus cheated the authority

7. The other accused involved in this racket are 1. Minhajul Haque of Sila PS, 2. Rakibul Islam of Dongra PS, 3. Jakir Hussain of Howly PS, 4. Rakibul Islam of Dongra PS. 5. Riajul Karim of Guleja PS and 6. Selim Malik of Jaharpam PS.

8. The learned Addl. PP has submitted that the present petitioner has been incriminated as middle man between the Principal of the CK College, Chakla and the miscreants who posed as fake students.

9. It is true that a huge amount of money was siphoned off and the petitioner's involvement have been reflected in the case diary. It is also submitted by the learned Addl. PP that the Principal has the OTP as a nodal officer and the other miscreants are not privy to the OTP. Once the OTP is given, then the process of disbursement of the scholarship into the bank account of the students gets rolling.

10. It is also submitted by the learned Addl. PP that through a middle man the office clerk and the principal of several colleges have been working in an organized manner of procuring scholarships in the name of fake students and in this manner government funds have been diverted to private use by scheming miscreants.

11. I have considered the import of the section under which the petitioner is booked. This offence is an offence against the society. Government funds meant for scholarship of students have been diverted in a dishonest and unethical manner for wrongful advantage. Investigation may be adversely affected if the petitioner is insulated by an order of pre arrest bail. At this juncture, I am not inclined to grant anticipatory bail to the petitioner.

12. The petition stands rejected at this stage.

13. Send back the case diary.

JUDGE

Comparing Assistant