

GAHC010269702022



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

Case No. : AB/3840/2022

ABED ALI
S/O NURUL ISLAM,
VILL.- CHAKIA PT. II,
P.O.- CHAKIA,
P.S.- ABHAYAPURI,
DIST.- BONGAIGAON,
ASSAM, PIN- 783392.

VERSUS

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

Advocate for the Petitioner : MR D J HALOI

Advocate for the Respondent : PP, ASSAM

B E F O R E
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

23.01.2023

Heard Mr. S. Das, learned counsel appearing for the petitioner as well as Mr. B. Sarmah, learned Addl. P.P. appearing for the State respondent.

The petitioner, namely, Abed Ali has filed this application under Section 438 Cr.P.C with prayer for pre-arrest bail as he is apprehending arrest in connection with Abhayapuri P.S. Case No. 528/2022, under Sections 468/471/420/409 IPC.

It is submitted on behalf of the petitioner that the petitioner is innocent. The petitioner is serving as LDA (Junior Assistant), at C.K. College, Chakla and he is not liable for any embezzlement of fund by any accused in connection with Ishan Uday Scheme of scholarship to the students of C.K. College. It is submitted that the Principal is the Nodal Officer and he being an assistant cannot sanction any scholarship to any of the student as alleged in the FIR.

The Additional P.P. has raised serious objection stating that the allegation is clear that the petitioner along with Principal of C.K. College have embezzled of huge amount of money, which was sanctioned for the student of C.K. College. It is submitted that the deserving students were deprived from the Ishan Uday Scholarship and the money sanctioned to be disbursed under the scholarship has been misappropriated to the wrongful advantage of the petitioner as well as the other miscreants involved in this embezzlement as alleged. The learned Addl. P.P. has also submitted that this offence is committed in an organized manner and this is a crime against the society. The network committing such offence has its tentacles spread out in the Bongaigaon and Barpeta area. In cases of economic offence of this nature, anticipatory bail cannot be granted in an untrammelled manner.

The FIR lodged by a College teacher reveals that the ongoing embezzlement of funds relating to Ishan Uday scholarship. Several individuals posed as students to procure the amount sanctioned as scholarship to the student. On a RTI reply, the informant learnt that the 247 beneficiaries were selected in the first list of C.K. College and scholarship were paid to the 247 enlisted students and thereafter, 93 students received scholarships under the Ishan Uday scheme. Unfortunately, not a single student has scored 85% in the C.K. College to claim the scholarship under the Ishan Uday scheme. The Assistant in collusion with the Principal of C.K. College had embezzled the entire amount for wrongful advantage.

I have perused the case diary.

There are cogent materials against the petitioner.

The anticipatory bail order may insulate him against the investigation. This is an offence against the society. I have taken into consideration the role of the petitioner. I have also considered the nature of offence alleged.

It appears that the petitioner has been evading arrest. It also appears that the investigation may be adversely affected and a scope of tampering of evidence cannot be ruled out at this stage. The investigation is still under progress. The offence alleged is a continuing offence as discernable from the FIR. At this stage, I am not inclined to extent the privilege of anticipatory bail to the petitioner.

Send back the case diary.

JUDGE

Comparing Assistant