

GAHC010285662023



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

Case No. : AB/4241/2023

MD MOFIZUL ISLAM
S/O MD. MASHIBAR SHEIKH
R/O VILL- JANGLIA
P.O. HOWRAPAR
P.S. DHUBRI
DIST. DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. B CHOWDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 19-12-2023

Heard Mr. B. Chowdhury, learned counsel for the petitioner Mofizul Islam.

The petitioner has filed this application under Section 438 of the *Code of Criminal Procedure* with a prayer for granting pre-arrest bail as he is

apprehending arrest in connection with *Nalbari Police Station Case No. 182/2020 corresponding to G.R. No. 524/2023 under Sections 120(B)/406/420/468/471 of the Indian Penal Code.*

Vide order dated 15.11.2023 in A.B. No. 3225/2022 the petitioner was granted interim bail, after perusal of the case diary.

The order dated 15.11.2022 in AB No. 3225/2022 reflects that:

“The petitioner is apprehending arrest in connection with this case. The petitioner applied a policy for his wife at ICICI, Prudential Life Insurance. The policy was processed and issued by the Advisor on 16.02.2018. The Advisor is under surveillance at present. It has been alleged that the petitioner raised a death claim on his wife’s death on 19.01.2019 before the said insurance company stating that his wife, Ayesha Khatun died on 10.05.2018. After investigation, it was found that Ayesha Khatun was not alive on 10.05.2017 and the policy was applied fraudulently and the Area Manager has lodged an FIR on being aggrieved. The learned counsel for the petitioner has annexed several documents. He has drawn our attention to annexure No. 2, which depicts that Ayesha Khatun died on 10.05.2018. Annexure 3 is the medical certificate of cause of death and depicts that the Ayesha Khatun died on 10.05.2018. The death certificate is marked as annexure 4 where the date of death is 10.05.2018. The learned counsel for the petitioner has submitted that the petitioner will co-operate with investigation.

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The case diary reveals cogent materials against the petitioner.

I have given my anxious consideration to the submissions at the Bar. I have carefully perused the documents along with the annexures. The documents reveal that the petitioner’s wife passed away on 10.05.2018 (annexure 6). The annexure 6 depicts that the date of death of Ayesha Khatun has been manipulated by the officials of ICICI prudential life Insurance Company. The annexure 6 was issued by the Secretary of Barbila Part-II, Kabarthan.

I have considered the gravity of the offence as well as its magnitude. I have also considered the quantum of punishment prescribed for the alleged offences. I have considered the submissions at the bar with circumspection. Considering all aspects, it is hereby directed that

in the event of arrest in connection with Nalbari P.S. case No. 182/2020 (corresponding to G.R. No. 524/2020), the petitioner, named above, shall be released on interim bail for two months from today. He shall be released bail for two months on furnishing a bail bond of Rs. 25,000/- with a surety of the like amount to the satisfaction of the arresting authority."

It is submitted on behalf of the petitioner that the petitioner had appeared before the Investigating Officer on 04.01.2023 and furnished suitable surety. It is submitted that as this Court had granted him interim anticipatory bail, he may be arrested any time soon. Hence, the petitioner has prayed to grant him absolute anticipatory bail. This case is still at the stage of investigation.

It is submitted that the charge sheet has not been submitted. The petitioner is apprehending arrest. It is submitted that the petitioner is cooperating with the investigation.

I have also considered the submissions that the petitioner has appeared before the Investigating Officer and his statement has been recorded. The petitioner is willing to cooperate with the investigation as well as with the trial.

Considering the peculiar nature of this case, the interim order dated 15.11.2023 passed in AB/3225/2022 is hereby made absolute.

This anticipatory bail application stands disposed of in the above terms.

JUDGE

Comparing Assistant