GAHC040003282024

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

Case No. : AB/49/2024

Tapi Gao
Son of Late Taku Gao, resident of Sille Village, PO and PS Oyang, East Siang District, Arunachal Pradesh.

VERSUS

The State of AP
represented by the Special PP (SIC)

Advocate for the Petitioner : Kamal Saxena

Advocate for the Respondent : Ojing Pada

BEFORE
HONBLE MR. JUSTICE BUDI HABUNG

ORDER

Date : 01-04-2024

1. This application has been filed by the applicant under Section 438 of the Code of Criminal Procedure, 1973 praying for grant of pre-arrest bail apprehending his arrest in connection with SIC(VIG) P.S. Case No. 05/2024 under Sections

120(B)/420/468/471/409 of the IPC, 1860 read with Section 13 (2) of the PC Act, 1988.

2. Basing on the report submitted by the Director of the Elementary Education, Government of Arunachal Pradesh, Itanagar vide Memo No.EED.2/689/CORR/SIC-VIG/2023-24 dated 10.01.2024, the above SIC (VIG) P.S. Case No. 05/2024, was registered.

3. It is submitted that earlier the accused/applicant was granted interim anticipatory bail by this Court on 24.08.2023 in AB/51/2023 in connection with SIC (VIG) P.S. Case No. 02/2023, U/Ss 120(B)/420/409/468/471 of the IPC R/W Section 13(2) of the PC Act, 1988. The said interim bail was subsequently regularized and made absolute on 14.09.2023. Thereafter, the accused/applicant was again arrested on 15.02.2024 in connection with SIC(VIG) P.S. Case No. 04/2023. In the said SIC case also, the accused was granted bail on health ground.

4. It is submitted that apart from the above mentioned two cases, the SIC has also registered 11(Eleven) more cases against the applicant in other districts of the Arunachal Pradesh. The allegations in all the above 13 cases against the accused are in connection with the same offence. Hence, the applicant has a reason to believe that he might be arrested in connection with the present case also and

cause unnecessary harassment by the SIC. Hence, this application for grant of pre-arrest bail.

5. Mr. Uttam Bori, learned senior counsel for the petitioner submits that the prayer of the petitioner for his release in the present case is only on health ground. He submits that the accused is a heart patient for which he had already undergone heart operation. At present he is under treatment as an indoor patient having admitted in the Hospital. Hence, prays for grant of anticipatory bail on health ground to facilitate proper treatment outside the jail.

6. The learned Standing Counsel, SIC (Vig) Mr. O. Pada, while referring to the case diary submits that the accused has already admitted his guilt of commission of the alleged offence. Prima facie, there is sufficient incriminating material against him for commission of the alleged offences. The learned Standing Counsel, SIC further submits that earlier the accused/applicant was arrested in connection with SIC(VIG) P.S. Case No. 04/2023. In that case, the accused was granted bail by this Court on 01.03.2024. He further fairly submits that the said bail was granted on health ground. And stated that at that time, the arrested accused had to be admitted at Tomo Riba Institute of Health and Medical Science (TRIHMS,) Naharlagun while he was still in the police custody. The learned

Standing Counsel, SIC further fairly submitted that in another case in connection with SIC(VIG) P.S. Case No. 02/2023, also the accused was granted interim anticipatory bail by this Court on 24.08.2023 on health ground. And the said interim bail was subsequently regularized and made absolute on 14.09.2023.

7. The record reveals that considering the health condition of the accused that he was still undergoing medical treatment, this Court by an order dated 19.03.2024, had directed the learned counsel for the petitioner to file an affidavit bringing on record about the latest medical prescription indicating the status of his health condition. In compliance of the said order, the petitioner has filed additional affidavit showing that he was admitted in Srishti Hospitals & Research Centre at Dibrugarh on 13.03.2024; and that, he is still in the said hospital undergoing treatment for his ailment. It is the further submission of the learned counsel for the petitioner that apart from the present health condition of the accused, he has a history of heart related ailment and the treatment required for his ailment was not being provided to him while he was in custody in connection with the another SIC(VIG) P.S. Case No. 04/2023 due to which his health condition had deteriorated. As the jail authority could not provide proper treatment, he was then forwarded to Tomo Riba Institute of Health and Medical Science (TRIHMS,) Naharlagun from the police custody for treatment.

8. I have heard Mr. U. Bori, the learned counsel for the petitioner and also heard Mr. O. Pada, the learned Standing Counsel, SIC(Vig.). I have also perused the case dairy produced by learned Standing Counsel, SIC(Vig.).

9. Considering the nature and magnitude of the offences that the accused/applicant has alleged to have committed and the material found on record against him; and also considering that the matter is still under active investigation, I am not inclined to grant anticipatory bail to the accused/applicant at this stage. However, considering his age and health condition having been admitted in the hospital as an indoor patient as shown in the annexure-1 of the additional affidavit and Annexure-6 of the bail petition, I am of the view that the prayer for grant of anticipatory bail can be considered on health ground in order to facilitate for proper treatments.

10. Accordingly, it is provided that in the event of the accused Shri Tapi Gao being arrested in connection with the above SIC(VIG) P.S. Case No. 05/2024 U/S 120(B)/420/468/471/409 of the IPC, 1860 R/w section 13 (2) of the IPC Act, 1988, he shall be released on interim anticipatory bail subject to the following conditions:

1) That the accused applicant shall report before the IO of the case within 10 days from today;

2) That he shall furnish a bail bond of Rs.1,00,000/- with two sureties of like amount to the satisfaction of the arresting authority;

3) That he shall cooperate with the investigating agency and make himself available for interrogation as and when called for;

4) That after report to be made within 10 days from today, the accused shall appear/ report before the I.O. of the case twice in a week i.e. every Monday and Thursday at 10:30 a.m for 4(four) weeks; and thereafter, once in a week i.e. on every Monday at 10:30 a.m for another 4(four) weeks. And after that, as per the condition (s) to be imposed by the I.O. of the case as per the requirement for further and proper investigation of the case;

5) That the accused applicant shall not, directly, or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer; and

6) That he shall not leave the jurisdiction of the Itanagar without prior permission of the IO of the case during investigation period and from learned Special Judge (PC Act), Yupia during trial period.

11. It is made clear that, in case, of violation of any of the above-mentioned condition, the anticipatory bail granted to the accused applicant shall automatically stand cancelled.

12. That the petitioner shall apply for grant of regular bail before the Special Judge (PC Act) within 30 days from today. On such bail application being made, the learned Special judge shall consider and disposed of the same on its own merit. However, the petitioner shall be remained protected by this anticipatory bail till disposal of such regular bail application to be filed by him.

13. With the observations made above, the anticipatory bail application stands disposed of.

Return the case diary.

JUDGE

Comparing Assistant