



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

Case No. : AB/90/2024

Joram Takar Badal
Son of Late Joram Talo, address F and G Sector, Itanagar, PO RK Mission, PS
Itanagar, Papumpare District, Arunachal Pradesh

VERSUS

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

Advocate for the Petitioner : Dicky Panging

Advocate for the Respondent : Ojing Pada, Spl. P.P. (SIC); T. Topu

BEFORE
HONBLE MR. JUSTICE KARDAK ETE

ORDER

Date : 12-06-2024

Heard Mr. D. Panging, learned counsel for the applicant. Also heard Mr. O. Pada, learned Special Public Prosecutor for the SIC (Vigilance) and Mr. T. Topu, learned counsel for the informant.

2. This is an application under Section 438 Cr.P.C., 1973, praying for grant of privilege of pre-arrest bail to the accused applicant, namely, *Shri*

Joram Takar Badal, in connection with SIC (Vig) P.S. Case No. 17/24, under Sections 120(B)/468/471/420/409 IPC, read with Section 13(2) of P.C. Act, 1988.

3. Pursuant to a complaint filed by one *Shri Tadar Dowa* and *Shri Mihin Chada*, who claims to be the President and General Secretary of *the All Arunachal Pradesh Public Health Engineering and Water Supply Department Workers Union (AAPPHE & WSDWU)*, on 06.05.2024 before the Superintendent of Police, SIC, alleging illegal appointment and posting of 17 (seventeen) members in different post(s) in the Department of Public Health Engineering and Water Supply (PHE & WS) and on approval of the Government of Arunachal Pradesh, Department of Vigilance, a case has been registered being SIC (Vig) P.S. Case No. 17/24, under Sections 120(B)/468/471/420/409 IPC, read with Section 13(2) of P.C. Act, 1988 on 14.05.2024.

4. Apprehending arrest, the present application has been instituted for grant of the privilege of pre-arrest bail by the accused applicant.

5. The accused applicant was serving as the Superintending Engineer in the Department of PHE & WS and has retired on 30.04.2024 on attending the age of superannuation. It is stated that during his posting as the Superintending Engineer, Miao Division in Changlang District, after consultation with the higher authorities of the Department and taking into consideration the urgency of manpower in the Department, few individuals were appointed on different categories of posts.

6. It is contended that the accused applicant contends that from the appointment of those individuals on different categories of post(s) in the Department, he has not gained any monetary benefits from them. The appointment was solely based on personal affection and merit of the candidates and were appointed in the vacant posts. The accused applicant came to know about the complaint by the *AAPPHE & WSDWU*, headed by its President and General Secretary, alleging illegal appointments after his retirement from service. In pursuance to the complaint, a case has been registered by SIC (Vig.), as mentioned above.

7. Mr. D. Panging, learned counsel for the accused applicant, submits that the candidates who were appointed vide order dated 08.03.2024, have been terminated by the Department and none of the candidates have received the salary or any other benefits from the concerned Department.

8. Mr. D. Panging, learned counsel, submits that accused applicant is a retired person and is a heart patient suffering from serious cardiological problem. He had to go for a heart surgery in the month of February, 2022. The accused applicant has been advised by the doctor for routine check-up after gap of every 3 (three) months and recently, he had suffered from shortness of breathing problem. On routine check-up, the doctor has advised and referred him to Apollo Hospital, New Delhi and had recommended for Aortic Valve replacement.

9. Mr. D. Panging, learned counsel, submits that by now, the candidates who have been allegedly appointed illegally have been

terminated. Since the accused applicant was serving as Superintending Engineer at the relevant point of time, he apprehends that he may be arrested by the SIC (Vig.) in connection with the aforesaid case. The accused applicant is a local indigenous person and has a strong hold in the area and has a respectable reputation in the society. Therefore, he submits that the accused applicant may be granted the privilege of pre-arrest bail on any conditions which may be imposed by this Court, considering the serious heart ailment of the accused applicant.

10. By filing the additional-affidavit, Mr. D. Panging, learned counsel, has brought on record to the effect that the accused applicant could not go for treatment to Apollo Hospital, New Delhi and as such, his health has deteriorated and all of a sudden due to chest pain, he has been admitted in the Intensive Care Unit (ICU) of TRIHMS Hospital at Naharlagun on 06.06.2024 and is still in the ICU and under observation of the Doctor and as such, Mr. Panging, learned counsel prays that the interim order dated 21.05.2024 may be made absolute so as to enable the accused applicant to go for better treatment outside the State.

11. Mr. O. Pada, learned Special Public Prosecutor, SIC (Vig.), while referring to the record, submits that the accused has appeared before the SIC (Vig.) Police Station on 28.05.2024 and personally recorded his statement. The Investigating Officer has seized incriminating documents from his possession. During examination, the accused applicant is found to be not cooperating and hiding the actual facts of the case. He submits that the detail breakthrough in the investigation can be achieved after his

formal arrest and custodial interrogation.

12. He submits that the investigation is at the initial stage as the other accused persons have been issued summons and they are yet to be examined and interrogated.

13. Mr. Pada, learned Special Public Prosecutor, further submits that considering the gravity of the offence and well-planned *modus operandi* of the accused applicant and his associates, the custodial interrogation is required to further pave the way for unearthing the role of his associates and monetary or other possible peculiar gains made by individuals from the present scam. Therefore, he submits that the accused applicant is not entitled to be granted pre-arrest bail at this stage. So far as the issue of the health of the accused applicant is concerned, he submits that the SIC (Vig.) or Investigating Officer is not that heartless that the accused applicant would be arrested from the ICU.

14. Considered the submissions of the learned counsel for the parties and also perused the Case Diary.

15. The accused applicant appears to have admitted his involvement in the present case of illegal appointment of the persons in different categories of posts in the Department of PHE&WS. It is seen that the appointments were handed over to the candidates through the accused applicant, which admittedly was done illegally. The candidates who have been appointed have been terminated by the Department by now.

16. Records reveal that there are incriminating materials against the

accused applicant. The investigation is in the initial stage as the alleged associates of the accused applicant are yet to be examined and interrogated as they have been issued summons. Some of the accused have sought for time to appear before the Investigating Officer. It also reveals that certain incriminating documents have been seized from the accused applicant.

17. It is also brought on record that the accused applicant is suffering from serious heart ailment having cardiological problem. The accused applicant had heart surgery in the year 2022 and the doctor has advised him to go for further treatment to Apollo Hospital, New Delhi and recommended for Aortic Valve replacement. The health of the accused applicant is stated to have deteriorated and he has been admitted to ICU of TRIHMS Hospital, Naharlagun and stated to be still in ICU and under the observation of doctors.

18. This Court, on the perusal of Case Diary finds that there are certain incriminating materials against the accused applicant. The investigation is in the initial stage as other accused persons are yet to be examined and interrogated. However, the accused applicant is also suffering from serious heart ailment and is admitted in the ICU at TRIHMS, Naharlagun. Considering the serious ailment that has been brought on record, this Court is of the view that the life and liberty of the accused applicant is also to be protected while balancing proper investigation. It is needless to observed that life and personal liberty of the accused is also the important factors to be considered while considering the bail application.

19. Having considered above, in the facts and circumstances of the present case, I am of the view that the accused applicant is entitled to be granted the privilege of pre-arrest bail on the ground of his health, as the accused applicant is stated to have been suffering from serious heart ailment.

20. Accordingly, the interim bail granted on 21.05.2024 is hereby made absolute on the following conditions:

(i). that the accused applicant shall appear before the Investigating Officer and continue to make himself available for interrogation by the Investigating Officer as and when required.

(ii). 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 from disclosing such facts to the Court or to any police officer.

(iii). that the accused applicant shall not communicate with the other co-accused and the witnesses till the investigation is completed.

(iv). that the accused applicant shall not leave the jurisdiction of Itanagar, without the prior permission from the Head of the Investigating Authority.

21. It is made clear that the accused applicant is extended the privilege of pre-arrest bail only on health ground.

22. The bail application stands allowed and disposed of.

23. The Case Diary be sent back.

JUDGE

Comparing Assistant