GAHC040008592024

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

Case No. : BA/71/2024

Pinky Das
Wife of Mrigen Rabha, resident of village Sonaphuli, PS Salbari, District Baksa, Assam

VERSUS

The State of AP
represented by the PP of AP

Advocate for the Petitioner : Shabjel Hoque Sikdar

Advocate for the Respondent : P P of AP

BEFORE
HONBLE MR. JUSTICE BUDI HABUNG

ORDER

Date : 31-07-2024

Heard Mr. S. H. Sikdar, learned counsel for the applicant. Also heard Ms. L. Hage, learned Additional PP for the State of AP.

2. This is an application filed under section 439 of the Cr.P.C, 1973 praying for grant of bail to the accused person namely, Mrigen Rabha, who has been

arrested on 04.06.2024 in connection with the Pasighat PS case No. 77/2024 under section 399/120(B) of IPC

3. The case of the petitioner in brief is that, a written FIR was lodged by one Ige Lollen, O/C of Pasighat PS, on 01.06.2024 inter-alia stating therein that on 01.06.2024 at around 11:10 hrs an information was received from a reliable source that a group of people comprising of 3 surrendered cadre of National Democratic Front of Bodoland (for short NDFB) along with others were heading towards Pasighat town from Assam to rob a specific wine shop dealing in huge transactions in the last or the first day of the month. Basing on the above information received, an extensive search was conducted and technical surveillance was mounted. The effort led to the apprehension of 3 surrendered cadre of NDFB namely Shri Basant Basumatary, Shri. Rashmi Basumatary, and Shri. William Basumatary. Based on the above FIR, the OC, P.S., Pasighat has registered the above-mentioned PS case under section 399/120(B) of IPC.

4. The case was investigated into and during the course of investigation, the accused person was arrested on **04.06.2024**. While denying the allegation made in the said FIR, the learned counsel for the applicant submits that the accused person is innocent and he was arrested on **04.06.2024** merely on suspicion. The accused person, in fact is working at Pasighat to earn his livelihood and he is nowhere connected or involved in the alleged robbery attempt or had made any plan for committing robbery at Pasighat on 01.06.2024. Hence, prays for his release on bail.

5. Ms. L. Hage, learned Additional PP for the State of AP produced the updated case diary; and while objecting bail has submitted that the accused persons have made statements revealing the name of the other accused persons involved in the case, and also disclosed that one accused person by name Basant Basumatary had paid Rs. 40,000/- to one Paresh Deka who is stated to have purchased one replica pistol to use the same for committing dacoit; however, the same is yet to be discovered from the possession of the accused Paresh Deka. She further submits that in the instant case all together 6 persons have been arrested and some more persons are yet to be arrested and the incriminating material involved in the preparing to commit the offence, i.e., the replica pistol as purchased by the accused Paresh Deka, is yet to be recovered and seized from Assam. Under the circumstances, if the accused person is released on bail there is every likelihood that the accused person may disappear or destroy the evidence.

6. On the other hand, the learned counsel for the applicant submits that in the instant case, there is no any allegation of commission of any offence by the alleged accused person. But the alleged accused person has been arrested merely on suspicion that he was preparing to commit offence of dacoity at Pasighat. For merely an allegation of offence which has not yet been committed, the accused person cannot be arrested and kept inside the jail custody for an indefinite period. And there on as stated by the learned Additional PP that some other accused persons are yet to be arrested and the incriminating material like the replica pistol stated to have been purchased is yet to be recovered and seized cannot be the ground for remand of the accused person under custody

for an indefinite period.

7. I have perused the updated scanned copy of the case diary. The record reveals that on receipt of the information, an effort made by the police led to the apprehension of the 3 accused persons from Pasighat Market area. However, except for the police statement whereby the accused persons are stated to have made plan to commit dacoity at the wine shop at Pasighat, no any incriminating material has been found against the accused person till date. From the record it also appears that the accused person has been arrested in connection with the above mentioned Pasighat PS case no. 77/2024 merely on suspicion of having made plan to commit the offence of dacoity at a specific wine shop at Pasighat on **01.06.2024**. The record further reveals that the accused person was arrested on **04.06.2024** and since then, he has been inside the custody for about 60 days. However, as submitted by the learned Additional PP the investigation of the case is still going on and the I.O of the case is not likely to file chargesheet within this week.

8. Heard both the learned counsel for the parties.

9. Considering the nature of the allegation against the accused person and considering that till date the police has not collected any incriminating material against the accused for making plan to commit the alleged offence of dacoit on 01.06.2024 at Pasighat, and also considering that the accused has already suffered the jail custody for about 60 days, I am of the considered opinion that the accused can be enlarged on bail, however, with certain conditions to ensure

his attendance before the IO of the case and the Court for trial.

10. Accordingly, this bail application is allowed.

11. The accused namely, **Shri. Mrigen Rabha** is directed to be released on bail on execution of a bail bond of Rs. 1,00,000/- (rupees one lakh) with two sureties, one of which shall be a resident of Arunachal Pradesh with the further condition that;

(i) The accused shall cooperate and make himself available before the IO of the case and appear before him as and when called for further investigation of the case.

(ii) That the accused 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.

12. With the above, this bail application stands allowed and disposed of.

Return the scanned CD.

JUDGE

Comparing Assistant