

GAHC040014262024



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

Case No. : AB/130/2024

Kuldeep Saxena
Son of Satish Chandra Saxena, resident of Dampiar Nagar, Mathura, PS and District
Mathura, Uttar Pradesh.

VERSUS

The State of AP
represented by the PP of AP

Advocate for the Petitioner : D K Medhi, D K Medhi

Advocate for the Respondent : P P of AP,

-BEFORE-

HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

-O R D E R-

25.10.2024

1. Heard Mr. DK Medhi, learned counsel for the petitioner. Also heard Mr. G Tado, learned Additional PP, Arunachal Pradesh.
2. The present application is filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 for granting pre-arrest bail to the petitioner, namely, Kuldeep Saxena in connection of Chimpu Police Station Case No. 36/2024

corresponding to GR No. 597/2024 under Section 120B/ 406/ 417/ 419/ 420/ 465/ 466/ 467/ 468/ 471/ 474 IPC

3. In the FIR, it is alleged that the present petitioner tried to facilitate work order for Solar Street Light under the area of Matak Autonomous Council and in the process, the present accused/ petitioner introduced the informant with one Partha Bharadwaj to be Managing Director of Matak Autonomous Council. As per the FIR, said Partha Bharadwaj asked the informant to deal with the present accused/ petitioner and the P.A. of Partha Bharadwaj, namely, Mrinal Kr. Saikia for the purpose of the work order and thereafter, said Mrinal Kr. Saikia issued a letter of award for supply of Solar Street Light in the name of Matak Autonomous Council on 27.06.2023 bearing a seal of Matak Autonomous Council. It is also alleged that both the present accused/ petitioner as well as aforesaid Mrinal Kr. Saikia asked the informant for signing of an MOU. However, subsequently the informant could learn that the aforesaid documents are fake documents and they could also learn that the aforesaid Partha Bharadwaj is not the Managing Director of Matak Autonomous Council and the Matak Autonomous Council did not issue such order. In the aforesaid backdrop, the FIR was filed.
4. It is contended by the learned counsel for the petitioner that the petitioner is a service provider to assist business houses to prepare tender documents and documents for supply of works and on the request of the informant they have prepared such document and also legitimately charged them their remuneration by paying GST. Therefore, the petitioner cannot be said to be involved in the commission of offence and there is also nothing to suggest in the FIR that the petitioner is having any nexus, either with Partha Bharadwaj or with the other accused, namely, Mrinal Kr. Saikia. Therefore, the petitioner be granted

anticipatory bail. It is further contended by the learned counsel for the petitioner that petitioner was initially granted interim protection by the learned Sessions Judge, Yupia and the petitioner had duly cooperated with the investigation. However, alleging non-cooperation of the petitioner, subsequently, bail was rejected. Therefore, this is a fit case, where the petitioner should be allowed to go on anticipatory bail.

5. Per contra, learned Additional PP, referring to the different materials collected by the investigating authority submits that the present petitioner is the king pin and co-conspirator with Partha Bharadwaj and Mrinal Kr. Saikia and it is the petitioner who had introduced the informant with Partha Bharadwaj and Mrinal Kr. Saika. Therefore, joint interrogation of the petitioner may be necessary along with already arrested accused Parth Bharadwaj. Accordingly, he submits that the petitioner shall not be granted privilege of anticipatory bail inasmuch as investigation shall require his custodial interrogation.
6. I have heard the learned counsel for the parties. Perused the case diary. The material so far collected by the investigating authority suggests that the present petitioner and his associate had created the fraudulent Memorandum of Understanding. The materials further suggest that forged work order totalling an amount of Rs. 6.87 Crore was issued and materials also suggest that the present petitioner was instrumental in commission of the offence. The material so far collected further suggest that the present petitioner projected himself to have good relation and influence over the Matak Autonomous Council for awarding the work order. The other accused person, namely, Partha Bharadwaj portrayed himself as Managing Director of Matak Autonomous Council by using fabricated Govt. Seal and letter head. It is also suggestive that over 1.87 crore was accumulated by the present petitioner in his personal and his wife's bank

account under the guise of process fee and cut money for facilitating the work.

7. This court has also considered the stage of investigation. It is in the opinion of this court that the investigation is at an early stage and therefore, considering the material so far collected as recorded hereinabove, this court is of the opinion that this is not a fit case where the privilege of anticipatory bail should be granted to the accused petitioner. Accordingly, the anticipatory bail application stands dismissed. Case diary be returned back.

JUDGE

Comparing Assistant