

GAHC010001992024



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

Case No. : AB/15/2024

SADDAM HUSSAIN
S/O ABDUL MOTIN
R/O VILL- KADAMONI PATHAR
P.O. AND P.S. JURIA
DIST. NAGAON, ASSAM, PIN-782446

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE LEARNED PP, ASSAM

Advocate for the Petitioner : ALHAJJ I UDDIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

19.02.2024

- 1.** Heard Mr. A. I. Uddin, learned counsel for the petitioner. Also heard Mr. K. Baishya, learned Additional Public Prosecutor for the State of Assam.
- 2.** This application under Section 438 of Code of Criminal Procedure, 1973, has been filed, for the second time, by the petitioner, Saddam Hussain,

who is apprehending his arrest, in connection with Juria P.S. case number 293/2023, under Section 120(B)/420/406/468 of the Indian Penal Code.

3. It is pertinent to mention herein that, on an earlier occasion, the petitioner had approached this court, praying for anticipatory bail in this case, however, by order dated 20.12.2023, passed in Anticipatory Bail application No. 3961/2023, the prayer for anticipatory bail of the present Petitioner was rejected at that time, on the ground that the investigation was at initial stage and there were sufficient incriminating material against the petitioner in the case diary. The present petitioner has again approached this court, this time, with two new grounds, which were not there when he had approached this court on earlier occasion.

4. The gist of the acquisition in this case is that, on 14.11.2023, one Mitu Das, SI of Police, had lodged an FIR(First Information Report) before the Officer-In-Charge of Juria Police Station, *inter-alia*, alleging that the informant had received an information through reliable sources that one Jahirul Islam has been indulging in habitual financial frauds, by opening current bank account in the name of NE Mushroom Business Group at ICICI Bank, Sibsagar Branch and though he is neither a businessman nor a service holder, however, from the month of April 2023 to the month of November 2023, several crores of rupees were credited and debited from his current account No. 062105007887, of ICICI Bank, coma, Sibsagar branch.

5. It was further alleged in the FIR that the said account has been presently freezed as per the complaint received by the ICICI Bank Authority from Gamdevi Police Station, Gujarat, Mumbai MH Crime Cell and Uttar Pradesh Police, Ghaziabad. It is also alleged in the FIR that the accused, Jahirul Islam, and the present petitioner, namely Saddam Hussain, and other co-accused are

suspected to be involved in nationwide financial fraud, and on 04.01.2023, said Jahirul Islam and the present petitioner took shelter at Pobitora Lodge, 6th Mile, Guwahati, in room No. 108, and on that day, a total amount of Rs. 2,33,93,807.12 was credited to the aforesaid current account of Jahirul Islam, and thereafter, on the same day, a total of Rs.2,27,43,491.75 was debited from the said account to several other accounts. It is further alleged in the FIR that both the accused persons are suspected to be involved in nationwide financial fraud.

6. Mr. A. I. Uddin, learned counsel for the petitioner, has submitted that, that though the earlier bail application of the present petitioner was rejected on 20.12.2023, however, thereafter, the Court of learned Additional Sessions Judge No. 2, Nagaon, has by order dated 24.01.2024, passed in Bail Application No. 2196/2023, has granted bail to the main accused Jahirul Islam, observing that further custodial detention of the said accused may not be necessary.

7. It is further submitted by the learned counsel for the petitioner that the petitioner has furnished the bank statement of his own bank account No. 223200100228581, maintained in Punjab National Bank, Juria Branch, to show that no money from the current account of co-accused Jahirul Islam has been credited in the said bank account of the present petitioner.

8. It is also submitted by the learned counsel for the petitioner that the present petitioner is only a journalist and was involved in a sting operation to unearth the financial scam which is being carried out by using the current account of co-accused Jahirul Islam.

9. On the other hand, learned Additional Public Prosecutor has produced the case diary of Juria P.S. Case No. 293/2023 and has opposed the grant of

anticipatory bail to the present petitioner on the ground that the present petitioner along with other co-accused persons has been involved in financial fraud and has defrauded large number of people across the nation and if he is released at this stage of investigation, he may tamper the evidence and influence the witnesses.

10. I have considered the submissions made by learned counsel for both the sides and have perused the materials available on record, including the case diary of Juria P.S. case No. 293/ 2023. It appears that the earlier Anticipatory Bail application of the present petitioner was rejected about two months back on 20.12.2023, when the investigation was still at initial stage on the ground that there were incriminating materials against the present petitioner. It also appears that though the FIR in this case was registered on 14.11.2023, however, even after lapse of more than three months of lodging of the FIR, the investigation of this case has not progressed well. On perusal of the case diary, it appears that only suspicion has been raised against the present petitioner of having been involved in financial fraud, however, no statement of any victim has been recorded yet in this case. There is no material on record to show that as who has been defrauded by huge amount of debit and credit which was done in the current account of co-accused Jahirul Islam.

11. It also appears that in the meanwhile, on 24.01.2024, the co-accused Jahirul Islam, who had given implicating statement against the present applicant, has already been released on bail by the Court of learned Additional Sessions Judge No.2, Nagaon holding that his custodial detention is not necessary. It also appears that though the prosecution side has opposed the grant of anticipatory bail to the present petitioner, however, it appears that the police has failed to apprehend him in last three months.

12. Considering the materials available on record, this court is of considered opinion that interrogation of the present petitioner is very much essential at this stage of the investigation for proper investigation of this case. Hence, the petitioner Saddam Hussain is hereby directed to appear before the investigating officer of Juria P.S. Case No. 293/2023 within a period of 10 days from the date of this order and cooperate in the investigation. As the main accused, Jahirul Islam has already been granted bail, it appears that if the present petitioner cooperates with the Investigating Officer, his custodial detention may not be necessary for fair completion of the investigation of the Juria P.S. Case No. 293/2023.

13. In view of above, in the event of the present petitioner complying with the directions of this court by appearing before the Investigating Officer within a period of 10 days from the date of this order, in the event of his arrest in connection with Juria P.S. Case No. 293/2023, he shall be allowed to go on bail of Rs. 30,000 with one surety of like amount to the satisfaction of the arresting authority subject to following conditions:-

- a.** the petitioner, Saddam Hussain shall appear before the Investigating Officer of Juria P.S. Case No. 293/2023 once in every week for next four weeks in addition to appearing before the Investigating Officer as and when so required within the said period for the sake of proper investigation of the case;
- b.** the petitioner, shall not directly or indirectly make any inducement, threat or promise to any other persons who may be acquainted with the facts of the case so as to dissuade such person from disclosing such facts to the Investigating Officer or to any Police; and
- c.** the petitioner shall not leave the State of Assam without the prior permission of the learned Chief Judicial Magistrate, Nagaon and prior intimation

to the Investigating Officer of the Juria P.S. Case No. 293/2023 during the pendency of the investigation of Juria P.S. Case No. 293/2023.

d. Violation of any of the above condition would be a good ground for cancellation of bail to the present petitioner.

14. With the above observation, this bail application is hereby disposed of.

15. Send back the case diary.

JUDGE

Comparing Assistant