

GAHC010003162024



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

Case No. : AB/68/2024

JOGADISH BRAHMA
S/O LATE SATYEN BRAHMA
VILL- WEST SALAKATI, P.O. AND P.S. SALAKATI
DIST. KOKRAJHAR, BTC, ASSAM, PIN-783369

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M SARANIA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 16.02.2024

Heard Mr. M. Sarania, learned counsel for the applicant and also heard Mr. R.J. Baruah, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application, under Section 438 Cr.P.C. is preferred by the applicant, namely, Sri Jogadish Brahma, who has been apprehending arrest in connection with Dibrugarh P.S. Case No. 936/2016 under Sections 7/13(1)(a)(b)(d)(2) of P.C. Act, read with Section 120B/ 420 IPC and added Sections 463/468/ 471/ 477(A)/ 201 IPC, for grant of pre-arrest bail.

3. It is to be noted that the aforementioned case has been registered on the basis of an FIR lodged by Dr. Angshumita Gogoi on 27.10.2016. The essence of allegation made in the aforesaid FIR is that one Sri Nabakanta Patir of Dibrugarh contacted the informant and asked her to pay a sum of Rs. 10,00,000/- for the purpose of recruiting her to the post of Dental Surgeon to be conducted by the APSC. When the informant along with her friend, Sri Arup Borkotoky came to his residence at Dibrugarh, the police of Dibrugarh Police Station apprehended Sri Nabakant Patir at his residential premises located at Circuit House Road, near (Damanis Nursing Home) when he was receiving the demanded money.

4. The allegation made against the present applicant is that while appearing in the combine competitive examination, 2013, conducted by the APSC, he had fraudulently and conspiring with co-accused added 30 marks in the question paper of political science so as to qualify in the aforesaid examination.

5. Mr. Sarania, learned counsel for the applicant has submitted that the applicant is no way involved with the alleged offence and he is now ready and willing to cooperate with the Investigating Officer. Mr. Sarania further submits that pursuant to the order dated 12.01.2024, by which the interim order of pre-arrest bail was granted to the applicant, the applicant had appeared before the

Investigating Officer and cooperating with the investigation. Mr. Sarania therefore, contended that interim pre-arrest bail may be made absolute under the same terms and conditions.

6. On the other hand, Mr. R.J. Baruah, learned Addl. Public Prosecutor appearing for the State respondent submits that the investigation against the applicant, along with some other accused persons are still going on and the I.O. has collected some materials against the present applicant and therefore Mr. Baruah raised objection in granting pre-arrest bail to the applicant.

7. Having heard the submissions of the learned Advocate. I have also gone through the petition and the materials placed on record and also perused the case diary, with the assistance of Mr. R.J. Baruah, learned Addl. Public Prosecutor.

8. It appears that the applicant had appeared before the Investigating Officer and his statement has already been recorded. Though the I.O. has collected incriminating materials against the applicant, considering the stage of investigation as well as the fact that the applicant has been extending cooperation with the investigating agency, this court is of the view that his custodial interrogation may not be warranted in this case. Accordingly, this Court is inclined to absolute the interim order dated 12.01.2024, in terms of the same conditions.

9. With the above direction, this anticipatory bail application stands disposed

of.

10. Case diary be returned.

JUDGE

Comparing Assistant