

GAHC010011332024



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

Case No. : AB/300/2024

SOMESWAR NATH
S/O KALIRAM NATH
R/O WARD NO. 1, K.B. ROAD,
P.O. AND P.S. NORTH LAKHIMPUR
DIST. LAKHIMPUR, ASSAM
PRESENTLY RESIDING AT NALBARI TOWN, P.O., P.S. AND DIST. NALBARI,
ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. R PHUKAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 09.02.2024

Heard Mr. R. Phukan, learned counsel for the applicant. Also heard Mr. B. Sarma, learned Addl. Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with Bihpuria P.S. Case No.181/2023,

under Sections 420/406/468/34 of the IPC, this application under Section 438 Cr.P.C. has been preferred by the applicant, namely, Someswar Nath, for grant of pre-arrest bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by one Minakhi Hazarika on 10.10.2023. The essence of allegation made in the FIR dated 10.10.2023, is that her own brother Munin Hazarika and one Debananda Saikia have received a sum of Rs. 7,50,000/- for providing her job of school teacher in a Government school and after some days of receiving the amount, they have handed her one appointment letter and on the basis of the said appointment letter, when she reported to the Headmaster of the said school for joining, she came to know that the appointment so handed over to her, is a fake appointment letter prepared with forged seal and signature of the officials, and thereafter, on being asked the accused persons, they have failed to return the amount.

4. Mr. Phukan, learned counsel for the applicant submits that this is the third application preferred by the applicant on the ground that on some set of allegations, the Director of Elementary Education has directed the District Elementary Education Officer of North Lakhimpur and Dhemaji to conduct an enquiry and after an enquiry, several FIRs were lodged and the applicant was arrested in the said cases, and that he has cooperated with the investigating agency in the said cases, and that he is ready to cooperate with the investigating agency in this case also, and therefore, Mr. Phukan submits that at this stage, the status report may be called for from the I.O. concerned.

5. On the other hand, Mr. B. Sarma, learned Addl. Public Prosecutor submits that this is the third application preferred by the applicant and that the ground assigned by the applicant for filing this third application is not at all satisfactory

and therefore, Mr. Sarma submits that the application is not maintainable, and therefore, it is contended to dismiss the application.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the application and the documents placed on record.

7. It appears that the applicant has approached this Court by filing AB No. 3855/2023, and the same was dismissed vide order dated 16.11.2023, after perusing the case diary. Thereafter, another AB No. 4182/2023 was preferred by the applicant and the same was also dismissed by this Court vide order dated 04.01.2024, after perusing the case diary.

8. Today, the applicant again approached this Court on the ground that he was arrested in some other cases on the set of allegations in connection with some other matters, where he has extended cooperation to the investigating agency. But, having considered the ground so assigned by the learned counsel for the applicant, this Court finds the same bereft of substance. Merely because he was arrested in some other cases wherein he has extended cooperation to the investigating agency, the same cannot be a change of circumstance in his favour. That too after rejection of two earlier petitions after perusing the case diary. No other satisfactory ground has been assigned, and therefore, this Court is of the considered opinion that this third anticipatory bail application, without there being any change of circumstance in his favour, is not maintainable and accordingly, the same stands dismissed.

9. In terms of above, this application stands disposed of.

JUDGE

Comparing Assistant