

GAHC010014682020



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

Case No. : AB/245/2020

MRIGEN SAIKIA
S/O- LATE MANIRAM SAIKIA, R/O- BATAHGHULI, PANJABARI,
GUWAHATI- 37, DIST- KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR G J SAIKIA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 01-02-2024

Heard Mr. M. Biswas, learned counsel for the applicant. Also heard Mr. R. J. Barua, learned Addl. Public Prosecutor for the State respondent
Apprehending arrest in connection with Special Case No. 02/2017, arising out of Dibrugarh P.S. Case No. 936/2016 u/s 12/13(2) of Prevention of Corruption Act with Section 109/120 (B)/420 /465/ 468/ 471/201 IPC, this application under

Section 438 Cr.P.C. is preferred by the applicant, namely, Dr. Mrigen Saikia for grant of pre-arrest bail.

It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by Dr. Angshumita Gogoi on 27.10.2016.

The allegation made in the aforementioned FIR, is that one Nabakanta Patir has contacted her and asked her to provide a sum of Rs.10,00,000/- to him for recruiting her in the post of Dental Surgeon, conducted by APSC. On 27.10.2016, while she along with her brother Arup Barkotoky came to Dibrugarh to handover the money to him then police arrested said Nabakanta Patir.

Mr. Biswas, learned counsel for the applicant, submits that this Court vide order dated 22.01.2020, was pleased to extend interim protection to him for a period of one month only to facilitate the investigating agency to record his statement and pursuant to said order, he had appeared before the investigating agency and the investigating agency got his statement recorded in the Court and thereafter, the petition filed by the applicant for declaring him as approver was rejected by the trial Court, and against the said rejection order the applicant had approached this Court by filing a criminal petition and the same was dismissed by this Court and against the said order, the applicant had preferred one SLP before the Hon'ble Supreme Court and the same also came to be dismissed.

Mr. Biswas, further submits that after completion of investigation the investigating agency has filed charge-sheet showing the applicant and another person as absconder in the charge sheet and that the trial is going on and on each and every date the applicant has been appearing before the learned court

below, and that he is ready to face trial and he apprehends that if he appeared before the learned court below, he may be remanded to jail hajat if the interim bail order dated 22.1.2020 is not made absolute and therefore, Mr. Biswas contended to allow this petition.

On the other hand, Mr. R. J. Barua, learned Addl. P.P. submits that since the charge sheet has already been submitted and trial is going on, this anticipatory bail application may be disposed of by directing the applicant to appear before the learned Court below and to apply for regular bail and till then the interim order dated 22.1.2020 may be extended.

Having heard the submission of learned Advocates of both sides, I have carefully perused the petition and the documents placed on record and also perused the order dated 22.1.2020. It appears that the petitioner has been shown as absconder in the charge sheet and he filed a petition before the learned Court below for being an approver in the instant case and thereafter this Court was pleased to grant interim protection to him for a period of one month only, vide order dated 22.1.2020, so as to facilitate the investigating agency to record his statement and after recording the statement of the applicant, the learned Court below had dismissed the petition filed by him for being approver.

It also appears that the trial of the case is going on and fifteen witnesses have already been examined and the applicant has been appearing before the Court below regularly and the co-accused persons have already been enlarged on bail. Having considered above and also considering the facts and circumstances on record, this Court is inclined to dispose of this application by directing the applicant to appear before the learned Court below on or before 20.2.2024 and to apply for regular bail and in the event of filing such an application learned

Court below shall consider the same, in accordance with law and also considering the necessity of custodial detention.

In terms of above, this anticipatory bail application stands disposed of.

At this stage, Mr. Biswas learned counsel submits that in a similarly situated case, one co-accused, who has been shown as absconder in the charge sheet has already been granted bail by the learned Court below pursuant to an order passed by this Court.

In view of the submission of learned counsel for the accused, it is provided that such issue may be raised before the learned Court below at the time of hearing of regular bail application.

JUDGE

Comparing Assistant