

GAHC010021662024



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

Case No. : AB/252/2024

RAKIB ALI @ BIKI ALI
S/O TOHID ALI
R/O BHUBAN BARUA PATH,
ISLAM PATTI, P.S. LATASIL
GUWAHATI-781001,
DIST. KAMRUP (METRO), ASSAM

VERSUS

THE STATE OF ASSAM
REP BY PP, ASSAM

Advocate for the Petitioner : MR. A CHAUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 05-02-2024

Heard Mr. B.K. Mahajan, learned counsel for the petitioner Rakib Ali @ Biki Ali.

2. The petitioner has filed this application under 438 of the Code of Criminal

Procedure, 1973 with prayer for pre-arrest bail as he is apprehending arrest in connection with Bharalumukh Police Station Case No. 353/2023 under Sections 120(B)/395 of the Indian Penal Code read with Section 25(1-A) Arms Act added Section 412 of the Indian Penal Code.

3. It is submitted on behalf of the petitioner that the petitioner was an informant and he never went to the place of occurrence. The prime accused have already been enlarged on bail.

4. Heard Ms. A. Begum, learned Additional Public Prosecutor for the respondent State who has submitted that all the co-accused were already arrested and and then enlarged on bail. Considering the import of the Section under which the petitioner is booked, the petitioner is not entitled to pre-arrest bail.

5. I have considered the submissions at the bar with circumspection and I have also perused the case diary. I have considered the submissions that the co-accused have been granted bail in connection with Bail Appln. No. 146/2024, Bail Appln. No. 4555/2023, Bail Appln. No. 4480/2023, Bail Appln. No. 4496/2023 and other bail applications.

6. The FIR unfolds that a team led by SI Mobarak Ali and SI(P) Anurag Bora of Bharalumukh PS assisted by some civilians, namely, Khairul Hoque, Biki Ali (petitioner), Sarif Tarwar and Sonu Ali conducted a raid in the rented house of Sunu Sharma on 21.11.2023 at about 9 PM where cash money of Rs. 1,69,70,000/- was recovered from two persons, namely Debkaran Sen and Manoj Kumar, both from Rajasthan. This cash was handed over to the Income Tax Department following due procedure, but from confidential sources, it was learnt that the police personnel and civilians, named above looted a bag

containing huge amount of cash from the place of occurrence by assaulting and threatening and using the service weapons to threaten Debkaran Sen and Manoj Kumar. The team conducting the raid retained the cash and disclosed only a lesser amount to the government officials. This was reported to the complainant by Nazmul Khan @ Little Khan and an enquiry commenced and it was unearthed that Khairul Hoque confessed about his involvement in looting the money along with the police personnel, namely, SI Mobarak Ali and SI (P) Anurag Bora. One reporter namely, Taufique Ahmed along with other civilians criminally conspired and planned to conduct the raid in the rented room where the money was stored. On 21.11.2023, at about 9 PM the miscreants led by the police personnel in the garb of conducting a search operation took away one bag filled with cash and they also assaulted both Debkaran Sen and Manoj Kumar and threatened them by brandishing their service weapons.

7. During investigation, cash of Rs. 7,30,000/- was recovered from the house of Khairul Hoque. On being led by SI Mubarak Ahmed an amount of Rs.17,50,000/- was recovered from the house of Rasiye Begum which was kept

concealed by SI Mobarak Ali Ahmed, cash of Rs.9 lacs was recovered from the possession of Nazmul Khan @ Little Khan, cash of Rs. 4 lacs was recovered from Toufique Ahmed and Sarif Tanwar confessed that he has received an amount of Rs. 7.5 lacs, but this amount was yet to be recovered. Anurag Bora also admitted that he received an amount of Rs. 5 lacs. This amount was received during investigation from his aunt's house. A total of Rs. 70 lacs was looted from Debkaran Sen and Manoj Kumar.

8. I have considered the submissions of the petitioner that the petitioner's father is seriously ailing. The petitioner is the sole breadwinner of his family and he is the father of a young child. The petitioner has annexed medical documents

of his father who is 52 (Fifty Two) years old as Annexure-E. I have considered the submissions that custodial interrogation may not be required as investigation has progressed to a considerable extent. I have also perused the case diary. There are indeed incriminating materials in the case diary against the petitioner. However, investigation has progressed to a considerable extent. It appears that custodial interrogation may not be required. I have also considered the submissions that the petitioner's father is seriously ailing. I have also perused the medical documents tagged along with the petition. The petitioner is a local resident and he has pledged to abide by any bail conditions if imposed upon him.

9. Considering all aspects and in view of my foregoing discussions, petition is allowed. In the event of his arrest, the petitioner shall be enlarged on bail on furnishing a bail bond of *Rs.30,000/- (Rupees Thirty Thousand)* with a suitable surety of like amount to the satisfaction of the arresting authority under the conditions that:

- i) The petitioner shall refrain from such activities with which he is alleged.*
- ii) The petitioner shall not leave the jurisdiction of the trial Court without prior written permission till completion of the trial.*
- iii) The petitioner shall not exercise threat to the witnesses.*
- iv) The petitioner shall not jump the bail.*

10. On breach of any of the bail conditions, bail order shall stand cancelled.

Send back the case diary.

In the above terms this Anticipatory Bail application stands disposed of.

JUDGE

Comparing Assistant