

GAHC010029822024



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

Case No. : AB/378/2024

ABEDIN JOYNAL BHUYAN
S/O LT. MOHIR UDDIN BHUYAN
VILL- HATSINGIAR (NEAR CIVIL HOSPITAL)
P.O. HATSINGIMARI
P.S. SOUTH SALMARA
DIST. SOUTH SALMARA MANKACHAR, ASSAM, PIN-783131

VERSUS

THE STATE OF ASSAM
REP BY THE LD. PP, ASSAM

Advocate for the Petitioner : MR. T J MAHANTA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 20.02.2024

Heard Mr. M.R. Khandakar, learned counsel for the applicant. Also heard Mr. P.J. Barman, learned Assistant Special Public Prosecutor for the respondent CM's Special Vigilance Cell.

2. Apprehending arrest in connection with Vigilance P.S. Case No. 01/2020, under Sections 120B/406/409/420/468/471 of the IPC, read with Section 13(2)

of the P.C. Act, this application under Section 438 Cr.P.C. has been preferred by the applicant, namely, Abedin Joynal Bhuyan, 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 Mrinal Sarma, Inspector of Police, CM's SVC, Assam, on 02.01.2020. The essence of allegation made in the FIR dated 02.01.2020, is that one Bhupati Barman in connivance with one Md. Khairul Alom Mia, did not execute any boundary wall in the Kukiladanga Burial Ground and they have misappropriated a sum of Rs. 7,00,000/-, by submitting fake bills and utilization certificate, purportedly showing execution of the work and thereby, caused huge loss to the State exchequer.

4. Mr. Khandakar, learned counsel for the applicant submits that nowhere in the FIR the name of the applicant finds mention and that the FIR is against one Bhupati Barman and Md. Khairul Alom Mia, and both of them were arrested in this case and the present applicant had received one notice from the I.O. and pursuant to the said notice, he had appeared before the I.O. and his statement had also been recorded and for a short period of time, he was working as Junior Engineer under the Dhubri Zilla Parishad Office, and that he is ready to cooperate with the investigating agency, and therefore, it is contended to allow the application.

5. On the other hand, Mr. P.J. Barman, learned Assistant Special Public Prosecutor for the respondent CM's Special Vigilance Cell has produced the case diary before this Court and fairly submits that there is no material against the present applicant in the case diary in connection with this case and the main culprits, namely, Bhupati Barman and Md. Khairul Alom Mia, have already been arrested by police.

6. Having heard the submission of learned Advocates of both sides, I have

carefully gone through the application and the documents placed on record and also perused the case diary with the assistance of Mr. P.J. Barman, learned Assistant Special Public Prosecutor for the respondent CM's Special Vigilance Cell.

7. Admittedly, the name of the applicant finds no mention in the FIR dated 02.01.2020, and also in view of the materials collected so far in the case diary and in view of the submission of learned Advocates of both sides, custodial interrogation of the present applicant seems not to be warranted here in this case, and therefore, this Court is inclined to allow this application.

8. Accordingly, it is provided that in the event of arrest of the applicant in connection with Vigilance P.S. Case No. 01/2020, under Sections 120B/406/409/420/468/471 of the IPC, read with Section 13(2) of the P.C. Act, he shall be released on pre-arrest bail on executing a bond of Rs. 50,000/- with one surety of like amount to the satisfaction of the arresting authority. The above privilege is, however, subject to the following conditions:

- (i) The applicant shall make himself available for interrogation by the Investigating Officer as and when required;
- (ii) The applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer; and
- (iii) The applicant shall not leave the jurisdiction of the learned C.J.M., Kamrup(M) without prior permission.

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

JUDGE

Comparing Assistant