

GAHC010069752024



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

Case No. : AB/883/2024

SOURAV BORGOHAIN
S/O LATE MOHIM BORGOHAIN, R/O DEMOWMUKH GOHAIN GAON, P.O.-
DEMOWMUKH, DIST- SIVASAGAR, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MS. P BORAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 02-05-2024

Heard Ms. P. Borah, learned counsel for the petitioner and Mr. B.B. Gogoi, learned Additional Public Prosecutor for the respondent State of Assam.

2. By this application under Section 438, Code of Criminal Procedure, 1973 [CrPC], the petitioner viz. Sourav Borgohain has approached this Court seeking the benefit of pre-arrest bail, apprehending his arrest, in connection with Sivasagar Police Station Case no. 2/2024 registered for the offences under Sections 420/406/407, Indian Penal Code [IPC].

3. The First Information Report [FIR] is lodged before the Officer In-Charge, Sivasagar Police Station on 04.01.2024 on behalf of the M/s Instakart Services Private Limited, a

company having its registered office at Bangalore, Karnataka.

4. It is stated that M/s Instakart Services Private Limited is in the business of providing logistic support to E-commerce companies like Flipkart Internet Private Limited, Myntra Design Private Limited, F1 Info Solutions & Services etc. for delivering shipments to end customers who placed orders on these platforms. As a logistic company, M/s Instakart Services Private Limited undertakes the activity of delivering shipments to the customers and pick-up goods [if any] being returned by the customers. It maintains a Hub at Nowjan, Sivasagar, Assam. The said Hub acts as a pick-up and delivery centre for the products ordered by the customers on the e-commerce platforms. The shipments to be delivered to the customers are stored at the delivery centre.

5. The petitioner was In-Charge of the Sivasagar Hub of M/s Instakart Services Private Limited during the relevant period.

6. The allegations brought against the petitioner are inter alia to the effect that when he was In-Charge of the Sivasagar Hub, he misappropriated cash on delivery amounts of Rs. 16,99,567/-. In addition, 464 nos. of shipments went missing from the office during his tenure and the value of those 464 nos. of shipments was Rs. 4,15,571/-. Bringing allegation of breach of trust and misappropriation and causing loss of an amount of Rs. 21,15,138/-, the FIR has been lodged.

7. Mr. Gogoi, learned Additional Public Prosecutor has produced the concerned case diary.

8. From the materials available in the case diary, collected during the course of investigation carried out so far, it has emerged that an audit was carried out by an audit team in respect of accounts of the Sivasagar Hub of M/s Instakart Services Private Limited. During the said audit, the audit team had unearthed that during the period from 10.11.2023 to 12.11.2023, when the petitioner was In-Charge of the said Hub, an amount of Rs. 18,37,173/-, received towards cash on delivery had been misappropriated. The modus operandi adopted was that deposit slips were generated for cash on delivery amount of Rs.

18,37,173/-, which amount was received from customers, but the said amount was not deposited in Airtel Payment Bank. The audit team further found missing of 464 nos. of shipments during the period when the petitioner was In-Charge of Sivasagar Hub. The concerned authority of Airtel Payment Bank has clarified that during the period from 10.11.2023 to 12.11.2023, the Hub In-Charge did not deposit any amount on behalf of M/s Instakart Services Private Limited, which was received from the customers.

9. There are sufficient incriminating materials in the case diary, collected during the course of investigation carried out so far, against the petitioner and the investigation is still in progress. In view of the same, this Court is of the considered view that the case is not a fit one to extend the privilege of pre-arrest bail under Section 438, CrPC to the petitioner at this stage of investigation. Accordingly, the prayer for pre-arrest bail under Section 438, CrPC is declined.

JUDGE

Comparing Assistant