

GAHC010084412024



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

Case No. : AB/1099/2024

PARAMANANDA SAIKIA
S/O LATE BIREN SAIKIA
R/O VILL AND PO. MADHABPUR, P.S. NARAYANPUR
DIST. LAKHIMPUR, ASSAM
PIN-784164

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR S DUTTA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 09.05.2024

Heard Mr. S. Dutta, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 438 of the Code of Criminal Procedure, 1973, praying for grant of pre-arrest bail to the accused/petitioner, who has been apprehending arrest in connection with Jonai P.S. Case No. 159/2023 (corresponding to GR No. 213/2023), under Sections 406/420/409/34 of the Indian Penal Code.

Case Diary has been received. Perused the same. Heard both sides.

It is submitted by Mr. S. Dutta, learned counsel for the petitioner, that the accused/petitioner is innocent and he is no way connected in the alleged offence. It is a fact that at the relevant point of time, the petitioner was discharging his duty as a Member Secretary of the Constituency Level Construction Committee. But he was only an Ex-Officio Member of the Construction Committee and as per the Government Rules and Guidelines, the Block Level Construction Committee will transfer the funds to the Construction Committee and after receiving the same, the Construction Committee, headed by the Chairperson, will release the amounts to the vendors for supply of the materials for construction works. Thus, the present petitioner, though he was working as a Member Secretary, had no authority to approve or chose the vendors and he was unaware about the registered owners of the approved firms by the Construction Committee. At present, he has already been transferred to Bongaigaon in the month of September, 2023 and during the investigation of this case, all the documents were already been seized by the Investigating Officer. The allegation is brought against the present petitioner only under the presumption and there is no direct allegation against the present accused/

petitioner. However, he is ready and willing to co-operate with the I.O. in the further investigation of this case if he is granted with the privilege of pre-arrest bail. More so, his wife is a cancer patient and in his absence, there is none to look after her. Being the government employee, there is no chance of absconding if he is granted with the privilege of pre-arrest bail.

In this context, Mr. P. Borthakur, learned Additional Public Prosecutor, has submitted that there are allegations of misappropriation of huge amount of government money to the tune of around Rs. 60 Lakhs, which was allotted for the construction of Model Anganwadi Centres under RIDF. The present petitioner, being the Member Secretary of the Constituency Level Construction Committee, had misappropriated the money by misusing the official capacity. Further, from the materials available in the Case Diary, it also reveals that an amount of Rs. 54 Lakhs @ Rs. 6,75,000/- for 8 (eight) numbers of Anganwadi Centres were transferred to one K. K. Kumbang Enterprise and on the same day, i.e. on 06.04.2023, another amount of Rs. 21 Lakhs was transferred to M/S Medok Enterprise and again on 18.04.2023, another amount of Rs. 15 Lakhs was transferred to M/S Medok Enterprise. He further submitted that without approval of the present petitioner, there could not be a transfer of huge quantity of government money. He further submitted that this is a case where there is an allegation of misappropriation of huge amount of government money and hence, custodial interrogation of the present accused/petitioner will be required to unearth some more facts involved in this case and accordingly, he raised objection in granting the privilege of pre-arrest bail to the present accused/petitioner.

Considering the entire submissions made by the learned counsels for both sides and also on perusal of the Case Diary as well as the case record, it is seen that sufficient incriminating materials are brought against the present accused/petitioner and the case is still under investigation. It is further seen that some of the relevant documents are already been seized by the police, but the custodial interrogation of the present accused/petitioner may be required considering the nature of allegation brought against him, wherein huge amount of government money is involved.

In view of above, I find that custodial interrogation of the accused/petitioner may be necessary to unearth some more facts of this case; and therefore, I do not find it a fit case to extend the privilege of pre-arrest bail to the accused/petitioner at this stage and accordingly, the same stands rejected.

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

Case Diary be sent back.

JUDGE

Comparing Assistant