

GAHC010102172024



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

Case No. : Bail Appln./1473/2024

PULIN SAIKIA
S/O ARUN SAIKIA
R/O C.D. ROAD,
(WARD NO. 3), P.O. AND P.S. LAKHIMPUR, DIST. LAKHIMPUR, ASSAM, PIN-
787001

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. P DUTTA

Advocate for the Respondent : PP, ASSAM

BEFORE
THE HON'BLE MR JUSTICE ARUN DEV CHOUDHURY
ORDER

22.05.2024

1. Heard Mr. P Dutta, learned counsel for the petitioner. Also heard Mr. MP Goswami, learned Additional Public Prosecutor, Assam.
2. This is an application filed under Section 439 Cr.P.C. praying for granting

regular bail to the petitioner, Pulin Saikia in connection with Dhakuakhana PS case No. 19/2024 (Corresponding to GR Case No. 23/2024) under Sections 406/420 IPC.

3. The petitioner apprehending arrest in connection with Dhakuakhana PS case No. 19/2024 approached this court by way of AB/1038/2024. This court passed an interim order on 22.04.2024 in the aforesaid AB/1038/2024, whereby interim protection was granted to the petitioner. The relevant portion of the aforesaid order is quoted hereinbelow:

“6. Considering the nature of allegations made in the FIR and having regard to the projections made on behalf of the petitioner, it is provided, **in the interim and till further consideration is made on the basis of the materials in the case diary to be produced**, that in the event of arrest of the petitioner in connection with Dhakuakhana Police Station Case No. 19/2024, he shall be released on bail on furnishing a bail bond of Rs. 50,000/- with one local surety of the like amount to the satisfaction of the arresting authority, subject to the conditions that:

[i] the petitioner shall appear before the Investigating Officer [I.O] of the case within a period of 10 [ten] days from today and shall co-operate with the investigation of the case;

[ii] the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any witness 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 petitioner shall not obstruct or hamper the police

investigation and to play mischief with the evidence collected or yet to be collected by the police.”

(emphasis supplied by this court)

4. It is the case of the petitioner that the petitioner could not appear before the I/O within a period of 10 days for the reason that he was suffering from chickenpox from the last week of April, 2024. This court under its order dated 22.04.2024 fixed the matter today for production of case diary.
5. The case diary is also produced today. Thus, the I/O is aware about the pendency of this case. A specific statement has been made in the bail application that at the time of arrest the petitioner produced the copy of the order dated 22.04.2024 passed in AB/1038/2024 but the I/O has ignored the said certified copy and stated that he has full power to arrest him. Accordingly, on 18.05.2024, the petitioner was arrested and was produced before the learned SDJM (M), Dhakuakhana.
6. Mr. MP Goswami, learned Additional Public Prosecutor, Assam has submitted that the petitioner is king pin in a financial scam. Therefore, he should not be granted bail.
7. Considered the above submission. Also perused the case diary produced. After perusal of the case diary, this court is of the tentative view that the I/O of the case in spite of existence of an interim-order has arrested the petitioner which shall be dealt in the connected AB separately. The I/O could have been intimated this court as regards alleged non-appearance of the accused within the stipulated time inasmuch as the matter was fixed on 22.05.2024 and the accused was arrested on 18.05.2024. This

court is also of the tentative view that the learned Magistrate also failed to appreciate such fact while sending the accused to custody on production after arrest. Be that as it may, such issues shall be dealt with separately in the connected Anticipatory bail Application.

8. After perusal of the material available on the case diary, this Court is of the further opinion that no custodial interrogation/detention of the petitioner is required. Accordingly, the present application is allowed.
9. It is directed that the applicant be released on bail on his furnishing a bail bond of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one solvent surety of the like amount to the satisfaction of the learned SDJM (M), Dhakuakhana with the following conditions:
 - (a) The petitioner shall not hamper with the investigation, or tamper with the evidence of the case,
 - (b) The petitioner 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 them from disclosing such facts to the Court or to any police officer,
 - (c) The petitioner shall appear before the I/O on each and every date as and when called for.

Bail application stands disposed of.

JUDGE

Comparing Assistant