

GAHC010102522024



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

Case No. : AB/1425/2024

ANARUL ISLAM
S/O LATE ABED ALI, R/O VILL NO 2 ISLAMPUR, P.S.-BIHPURIA, DIST-
LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. N HASAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 25.07.2024

Heard Mr. N. Hasan, learned counsel for the petitioner. Also heard Mr. B. Sharma, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 438 of the Code of Criminal Procedure

for grant of pre-arrest bail to the accused/ petitioner, who is apprehending arrest in connection with Bihpuria P.S. Case No. 40/2024, under Sections 120(B)/406/420 /489-B/489-C of the Indian Penal Code (corresponding to GR Case No. 153/2024).

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

It is submitted by Mr. Hasan, learned counsel for the petitioner, that the earlier bail petition for the present accused/ petitioner was rejected vide Order dated 09.04.2024 after perusal of the Case Diary. But the present petition has been filed as there may be substantial progress in the investigation and the custodial interrogation of the present accused/petitioner may not be required for the interest of investigation. Mr. Hasan further submitted that from the seizure list as well as from the F.I.R. itself, it reveals that only one fake gold was alleged to have been recovered from the possession of the present accused/petitioner, but there is no allegation of recovery of any fake currency from the possession of the accused/petitioner and thus, Section 489-B & 489-C does not attract against the present petitioner. More so, there is no victim in this case who have been cheated by the present petitioner and thus, Section 420 IPC also does not attract against him. However, there may be an attempt as per the materials in the F.I.R., but the same was not successful and no person has been cheated till the filing of the F.I.R. Mr. Hasan further submitted that some of the co-accused persons are already released on bail and hence, considering this aspect also, the present accused/petitioner may be granted with the privilege of pre-arrest bail so that he can appear before the I.O. and can co-operate in the investigation of this case.

Mr. B. Sharma, learned Additional Public Prosecutor, has submitted in this regard that this is a subsequent anticipatory bail application, which has been filed after rejection of the earlier anticipatory bail application after perusal of the Case Diary, and the petitioner has not brought any new ground in the present anticipatory bail application. So far as the progress of the investigation is concerned, he submitted that there is sufficient progress in the investigation, but some more persons are actively involved who are yet to be booked in connection with this case and such kind of offence was committed by a gang who tried to cheat the people from outside as well as within the State of Assam by providing some fake gold and fake currency note. More so, from the F.I.R., it reveals that the gold as well as the currency was fake which were seized from the possession of the accused/petitioner as well as from the possession of the other accused persons. He further submitted that the other co-accused persons were released on bail considering the length of detention and also considering the view that they were interrogated by police in custody. But the custodial interrogation of the present accused/ petitioner will be necessary to unearth some more facts of the case and also to book some other accused/culprits involved in the alleged offence. Accordingly, the learned Additional Public Prosecutor raised objection in allowing the accused/petitioner to go on anticipatory bail at this stage.

After hearing the submissions made by the learned counsels for both sides and also on perusal of the case record as well as the Case Diary, it reveals that the earlier anticipatory bail petition was rejected considering the materials available in the Case Diary and the nature of offence. There is no new or urgent

ground found in the present anticipatory bail application to be entertained which was earlier rejected by this Court on perusal of the Case Diary. However, the Case Diary was called for to see the progress of the investigation and from the materials available in the Case Diary as well as from the submission made by the learned Additional Public Prosecutor, it is seen that some more persons may be involved in the alleged offence who are yet to be arrested in connection with this case and the investigation is still under progress.

In view of above and also considering the entire facts and circumstances of this case, viz-a-viz the nature and gravity of the offence, I do not find it a fit case to extend the privilege of pre-arrest bail to the present accused/petitioner and accordingly, the same stands rejected.

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

JUDGE

Comparing Assistant