

GAHC010103722024



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

Case No. : AB/1353/2024

RAJA QUL ISLAM
S/O AKBAR ALI, R/O PALIGUR, P.S.-MORIGAON, DIST- MORIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. S M MOLLAH, MS. C M BEZBARUAH, MR R ALI

Advocate for the Respondent : PP, ASSAM,

Linked Case : AB/1478/2024

FARHANA TASNEEM
W/O RAJA QUL ISLAM
R/O PALIGUR
P.S.-MORIGAON
DIST- MORIGAON
ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR
ASSAM

Advocate for : MR. S M MOLLAH
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

Linked Case : AB/1492/2024

MS. GITUMONI SAIKIA
W/O DARPAN JYOTI BORAH

RESIDENT OF POLYROAD
ANANDA NAGAR
PO AND PS NAGAON
DIST NAGAON
ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY PP ASSAM

Advocate for : MR. T J MAHANTA
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

BEFORE
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND
ORDER

08.08.2024

Heard Mr S M Mollah, learned counsel for the petitioner, Raja Qul Islam, who has filed this application under Section 438 CrPC, which is registered as AB No. 1353/2024.

2. The learned counsel, Mr S M Mollah, is present on behalf of the petitioner Farhana Tasneem, who has filed this application, which is registered as AB No. 1478/2024.

3. Heard Mr T J Mahanta, learned Senior Counsel for the petitioner, Gitumoni Saikia, who has filed an application under Section 438 CrPC, which is registered as

AB No. 1492/2024.

4. All the petitioners named above have filed their applications for pre-arrest bail as they are apprehending arrest in connection with Morigaon PS Case No. 120/2024, under Sections 120(B)/409/320 of the Indian Penal Code, 1860.

5. Heard Mr M P Goswami, learned Additional Public Prosecutor for the State of Assam.

6. An FIR was lodged by Sri Dulal Bora against the Head of the Office of the Fisheries Department of Morigaon District, Sri Bhaskar Jyoti Nath, DFDO, and his associate brokers for their fraudulent activities.

7. It is alleged that Sri Bhaskar Jyoti Nath is involved in corruption in collusion with some brokers. Their activities have been noticed by the residents of Morigaon.

8. It is contended that a beneficiary, namely, Rupa Bharali, a resident of Jagiroad has received a four-wheeler vehicle for selling fish under the Prime Minister's Fisheries Resources Scheme with subsidy of Rs. 6 lacs from the Office of the Fisheries Department at Morigaon. However, a broker, namely, Raja Qul Islam of Jagiroad, submitted the invoice for purchasing a vehicle in the name of one of his close associates of the DFDO and he deposited only a fraction of the subsidy into Rupa Bharali's bank account. Later, a close associate, Raja Qul Islam purchased the vehicle in his own name and embezzled the money in collusion with the DFDO.

Rupa Bharali was the beneficiary, but now, the broker, i.e., the petitioner, Raja Qul Islam is enjoying the fruits after purchasing the vehicle in a fraudulent manner.

9. It is further alleged that Bhaskar Jyoti Nath is involved in approving the subsidy because he is the Head Officer of the Fisheries Department and under his instructions, the Government funds could be withdrawn after verification of invoices for purchasing the vehicles.

10. It is further alleged that some brokers have been dominating the Fisheries Department with the assistance of Bhaskar Jyoti Nath and they have easy access to the offices and they are also well aware of the bank accounts of beneficiaries of the Department. They paid a Boro Babu, Head Assistant, to procure the information relating to the beneficiaries.

10. It is further alleged that the brokers of Moirabari, Abdul Kalam, Mohammad Farooq, Mubarak Hussain, Imran Hussain, Abdul Baten, Jonaid Akand, Abu Bakkar Siddiqui, Mojibur Rahman and Hibzur, also have easy access to the Department of Fisheries. The broker Abdul Kalam also threatened to slit the throat of Gopal Patowary as Gopal Patowary failed to select the beneficiaries according to his (Abdul Kalam's) choice and complaint relating to this incident is pending at the Morigaon Police Station. There are several instances where the brokers in collusion with the DFDO were successful in releasing subsidies without implementing the scheme. As soon as this FIR was lodged, the petitioners, Raja Qul Islam, Farhana Tasneem and

Gitumoni Saikia have approached this Court and vide order dated 28.05.2024 in AB No. 1353/2024, order dated 06.06.2024, in AB No. 1478/2024 and order dated 07.06.2024, in AB No. 1492/2024, the petitioners were granted interim pre-arrest bail.

11. It is submitted on behalf of the petitioners that all the petitioners, except Farhana Tasneem, have appeared before the IO and their statements have been recorded and they have cooperated with the investigation.

12. It is submitted that the petitioner, Farhana Tasneem is at her advanced stage of pregnancy and she is unable to travel and thus she has not appeared before the IO, but she is willing to cooperate with the investigation. She has also extended her cooperation with the investigation.

13. The learned Additional Public Prosecutor has raised serious objection stating that there are incriminating materials in the Case Diary against the petitioners. The petitioners are involved in an economic offence and thus, they are not entitled to bail. This is not a single incident, and there are allegations that the petitioners have procured and they have also helped to procure subsidies in a clandestine manner. The learned Additional Public Prosecutor has prayed to reject their prayer for anticipatory bail.

14. I have scrutinized the Case Diary.

15. The merits of this case are not brought to the fore. Investigation is still under progress. However, at this juncture, I am not inclined to grant pre-arrest bail to the petitioner, Raja Qul Islam.

16. I have considered the submission that the petitioner, Farhana Tasneem is at her advanced stage of pregnancy. I have considered the role attributed to the petitioner, Farhana Tasneem and the petitioner, Gitumoni Saikia.

17. There are indeed some materials against both the petitioners, Farhana Tasneem and the petitioner, Gitumoni Saikia.

18. The petitioner Gitumoni Saikia has appeared before the IO and she has cooperated with the investigation. She has not violated any bail conditions.

19. I have considered the submission on behalf of both the petitioners, Farhana Tasneem and Gitumoni Saikia that they are willing to cooperate with the remaining part of investigation and abide by any stringent bail conditions, if imposed upon them. The petitioner, Gitumoni Saikia is a Government Employee and she is not a flight risk.

20. In view of my foregoing discussions, the interim pre-arrest bail order dated 06.06.2024, in AB No. 1478/2024, is hereby made absolute and the prayer for pre-arrest of the petitioner, Farhana Tasneem, is hereby allowed. The interim pre-arrest bail order dated 07.06.2024, in AB No. 1492/2024 is hereby made absolute and

thereby, the petitioner, Gitumoni Saikia is granted bail under Section 438 CrPC. Both the petitioners, Farhana Tasneem and Gitumoni Saikia are directed to cooperate with the remaining part of investigation and to refrain from such activities with which they are alleged. Both the petitioners are directed not to leave the jurisdiction of the Court without prior permission. On breach of any bail conditions, their bail order shall stand cancelled.

21. The pre-arrest bail petition of the petitioner, Raja Qul Islam, under Section 438 CrPC, stands rejected and interim pre-arrest bail order dated 28.05.2024 stands vacated.

22. Send back the Case Diary.

JUDGE

Comparing Assistant