

GAHC010117082024



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

Case No. : AB/1530/2024

RONO LUNGCHANG
S/O LATE A. SIMON LUNGCHANG, R/O LEDO, TIKOK, MALUGAON, P.S.-
MARGHERITA, DIST- TINSUKIA, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR S PARASHAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 28-06-2024

Heard Mr. S. Parashar, learned counsel for the petitioner Sri Rono Lungchang, who has filed this application under Section 438 of Code of Criminal Procedure, 1973 (CrPC for short) with prayer for pre-arrest bail as he is apprehending arrest in connection with Margherita Police Station Case No. 58/2024 under Sections 120(B)/379/302/34 of the Indian Penal Code, 1860 (IPC

for short).

2. Heard Mr. K.K. Parashar, learned Additional Public Prosecutor, Assam for the State respondent.

3. The FIR unfolds that on 25.05.2024 at about 9.45 AM, the informant received a phone call from SDO (Civil), Margherita who informed him that two persons from the Constituency of MLA Ribhoi, Meghalaya and one another person are stuck in a mine in Borgoloi area. Immediately the informant embarked into an enquiry and he found an eye witness named Nishant Rai residing in the same area who stated that the unfortunate individuals were engaged in illegal coal mining in Tikok West Mine of Namdang Coal Gran No. 4 NC area. They dug up a rat hole to commit theft of coal and met with an accident. During enquiry, it was also unearthed that they were working as per instructions of some other miscreants who were paying them for risking their lives for committing theft of coal through such rat holes. There is an organized nexus of coal theft. Intentionally the lives of several individuals have been endangered in this manner and two persons have died while committing theft of coal.

4. The learned counsel for the petitioner has drawn the attention of this Court to the statement of Nishant Rai recorded under Section 164 of the CrPC which is marked as Annexure-1 series of the petition.

5. It is submitted that the petitioner is neither named in the FIR nor in the statement of the witnesses are recorded under Section 164 of the CrPC.

6. To this, the learned Additional Public Prosecutor has raised serious objection stating that there are incriminating materials in the Case Diary against the petitioner. It is submitted that the petitioner is complicit. He is also a

member of the nexus in illegal mining through rat holes. He received commission and during investigation more than Rs.2 Crores was recovered in his house. His name has not been mentioned in the FIR as investigation commenced only after the FIR was lodged and all these nefarious activities were unearthed during the investigation. Considering the staggering magnitude of the offence the petitioner may not be admitted to bail. The learned Additional Public Prosecutor has prayed to reject the bail petition as investigation is still under progress and the investigation may be adversely affected if the petitioner is at large.

7. I have considered the submissions at the bar with circumspection. I have also considered the magnitude of the offence. The network is involved in the nexus of illegal coal mining having its tentacles spread over a large area. Investigation may be impeded if the petitioner is at large. The merits of this case are not brought to the fore. At this juncture, I am constrained to reject the bail petition.

8. Hence, petition with prayer for bail is rejected at this juncture.

9. In the above terms, Anticipatory Bail application stands rejected at this stage.

10. Send back the Case Diary.

JUDGE

Comparing Assistant