

GAHC010119642024



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

Case No. : Bail Appln./1778/2024

JITENDRA NATH
S/O LT. CHITESWAR NATH
R/O VILL- BAHUABHETI
P.S. NAGAON
DIST. NAGAON, (M), ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. FIRUZ KHAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

27.06.2024

1. Heard learned counsel Mr. F. Khan for the petitioner, Jitendra Nath.
2. This application has been filed by the petitioner under Section 439 of the

Cr.PC with prayer for bail as he is behind bars since 23.05.2024 in connection with Moirabari P.S. Case No. 80/2024 registered under Sections 120(B)/419/420/409/467/468/471 of the IPC.

3. Heard Mr. B. Sharma, learned Additional Public Prosecutor, Assam for the respondent State.

4. The allegation against the petitioner is he misappropriated Government funds while working as Assistant Accounts Officer in Moirabari Anchalik Panchayat. He has interpolated and manipulated the cheques by increasing the amount in the cheques and in this manner, he has misappropriated funds. Some of the cheque numbers which have been manipulated by the petitioner are:

- (i) 814831-issued on 14.02.2024,
- (ii) 814839- issued on 23.02.2024,
- (iii) 814828- issued on 02.02.2024, and
- (iv) 814828- issued on 14.02.2024.

5. Learned Additional Public Prosecutor has raised serious objection stating that there are incriminating materials in the Case Diary and the report of the Investigating Officer reveals that investigation is at its nascent stage. The custody of the petitioner is required for progress of the investigation.

6. Learned counsel for the petitioner has submitted that the petitioner has already been suspended and there is no scope that he will manipulate any documents as he will not be allowed to attend his office.

7. It is further submitted that during his custody in the jail, the petitioner was forwarded to the Moirabari Civil Hospital for treatment and he was admitted in the hospital and underwent treatment for more than one week in the Moirabari Civil Hospital. It is submitted that further custodial detention cannot be considered as pre trial punishment at this stage.

8. I have considered the submissions at the Bar with circumspection.

9. I have scrutinized the Case Diary. Indeed there are incriminating materials in the Case Diary against the petitioner.

10. However, investigation has progressed to a certain extent. Petitioner is a local resident and has pledged to co-operate with remaining part of the investigation.

11. I have also considered the submission that the petitioner is still under suspension and he will not be able to manipulate any documents in the office.

12. I have also considered the submission that the petitioner is willing to abide by any stringent bail conditions.

13. Considering all aspects and in view of my foregoing discussions, petition is allowed. The petitioner is enlarged on bail of Rs 30.000/-, with a suitable surety of like amount to the satisfaction of the learned CJM, Morigaon, under the conditions that;

(i) the petitioner shall refrain from such activities with which he is alleged,

(ii) the petitioner shall co-operate with the investigation and appear before the Investigating Officer on every fortnight till completion of the investigation.

On breach of any of the bail conditions, bail order shall stand cancelled.

14. Send back the Case Diary.

JUDGE

Comparing Assistant