

GAHC010120422024



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

Case No. : AB/1606/2024

IKRAM HUSSAIN
S/O LATE IKBAL HUSSAIN, R/O SANTIPUR, MASJID ROAD, GUWAHATI-
781009, P.S.-BHARALUMUKH, DIST- KAMRUP (M), ASSAM

VERSUS

STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MS. T SOM, MS. U HAZARIKA, MR H DAS

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 01-10-2024

Heard Ms. T. Som, learned counsel for the petitioner, Ikram Hussain.

2. The petitioner has filed this application under Section 438 of the Code of Criminal Procedure, 1973, with prayer for pre-arrest bail, as he is apprehending arrest in connection with Bharalumukh PS Case No. 353/2023, registered under

Sections 120(B)/395 of the Indian Penal Code read with Section 25 (1-A) of the Arms Act.

3. Heard Ms. N. Das, learned Additional Public Prosecutor for the State of Assam.

4. The FIR unfolds that a Police Team made by SI Mobarak Ali and SI Anurag Bora of Bharalumukh Police Station, accompanied by some civilians, namely, Khairul Haque, Biki Ali, Sarif Tanwar and Sonu Ali, on 21.11.2023, at about 09:00 pm, conducted a raid in the rented house of Suno Sharma at Athgaon and recovered cash of Rs. 1,69,70000/- (Rupees One Crore Sixty-Nine Lacs Seventy Thousand) from two persons, namely, Debkaran Sen and Manoj Kumar, both from Rajasthan, vide Bharalumukh PS GDE No. 32, dated 21.11.2023. This cash and the two persons, namely, Debkaran Sen and Manoj Kumar were handed over to the officials of the Income Tax Department after following due procedure. However, from confidential sources, it was uncovered that the Police personnel and the civilians looted a bag containing huge amount of cash from the place of occurrence, by threatening and assaulting the inmates in the place of occurrence with their service weapons. Only a part of the money recovered from the above two persons from Rajasthan, was handed over to the Government officials, which resulted in seizure of lesser amount of money found from the rented house of Sano Sharma.

4.1. On receiving the secret information, an enquiry was conducted by the informant under the direction of the DCP, West Guwahati, and it was unearthed that the two Police personnel along with the civilians hatched up a conspiracy for looting the cash from the place of occurrence. During enquiry, one Khairul Haque was picked up and interrogated in the morning of 30.11.2023. During

interrogation, Khairul Haque confessed about his involvement in looting the money along with the Police personnel and he stated that the Police personnel, SI (P) Mobarak Ali and SI (P) Anurag Bora, one Reporter, namely, Toufique Ahmed, along with other civilians, namely, Biki Ali, Sarif Tanwar and Sonu Ali, hatched up a conspiracy to conduct raid in the rented house, where a huge amount of cash was stored. The two Police personnel along with Biki Ali, Sonu Ali and Khairul Haque in the pretext of a Police raid, entered into the room occupied by Debkaran Sen and Manoj Kumar of Rajasthan and conducted a search operation and took away a bag filled with cash.

4.2. During investigation, it was unearthed that Rs. 7,30,000/- was recovered from the house of Khairul Haque. Rs. 17,50,000/- was recovered from the house of one Rasiye Begum, as led by SI(P) Mobarak Ali, which was kept concealed by SI(P) Mobarak Ali in Rasiye Begum's house. Rs. 9,00,000/- was recovered from the possession of Nazmul Khan (Little Khan) and Rs. 4,00,000/- was recovered from the possession of Toufique Ahmed. During interrogation, the accused Sarif Tanwar and SI(P) Anurag Bora, also confessed of being in possession of Rs. 7.5 lacs and Rs. 5 lacs, respectively.

5. It is submitted on behalf of the petitioner that he is not named in the FIR and is not involved in this case and earlier it was observed by this Court vide order dated 27.05.2024 in AB 678/2024 that as there were no incriminating materials found against the petitioner, there appears to be no apprehension of arrest.

6. I have considered the submissions at the Bar and also scrutinized the case diary.

7. Learned Additional Public Prosecutor has raised objection stating that there are incriminating materials in the case diary against the petitioner. The statement of the witnesses directly implicates that the petitioner is complicit. Perusal of the case diary clearly reveals that there are incriminating materials against the petitioner in the case diary. At this juncture, there appears to be no justified grounds to extend the privilege of anticipatory bail to the petitioner.

8. Anticipatory bail application stands rejected.

9. Send back the case diary.

JUDGE

Comparing Assistant