

GAHC010137692024



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

Case No. : AB/1788/2024

SOKIAL RAHMAN
S/O SABURUDDIN, VILL- MONAKOSHA, P.S.-MORNAI, DIST- GOALPARA,
ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. N UDDIN, MS. A AKHTAR, MR S K CHHETRY, MR. M ISLAM

Advocate for the Respondent : PP, ASSAM,

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

01.08.2024

Heard Mr. N. Uddin, learned counsel for the petitioner. Also heard Mr. K. K. Parasar, learned Additional Public Prosecutor for the State respondent.

This is an application filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, praying for grant of pre-arrest bail to the accused/petitioner in connection with Mornai P.S. Case No.42/2024 under Sections 468/ 471/ 472/ 473/420/379/411 of the Indian Penal Code.

The Case Diary has been received and I have perused the same.

It is submitted by the learned counsel for the petitioner, Mr. Uddin, that the petitioner is a daily wage laborer; he is innocent and has not committed any offence as alleged in the FIR. It is contended that on the day of the incident, one Arupjyoti Daimary came to him and identified himself as a Government official from the office of the Chief Engineer, Public Works Road Department. He claimed to have an order to transport the iron joist lying there to another location. Arupjyoti Daimary then requested the petitioner's assistance in carrying the iron joist using JCB and paid him Rs. 12,000/- as labour charge. He assured the petitioner that he would send the official order from the PWD(R) Department to the petitioner's Whats App mobile number, which could be shown to anyone who inquires about the situation. Thus, petitioner is no way connected in the alleged offence, and his name has been falsely implicated in connection with this case. Though, it is a fact that when the local people arrived, he fled away from the place of occurrence. Accordingly, he filed this

petition, as there is an apprehension of being arrested, as the police personnel are frequently visiting his house. Thus, he prays for the grant of interim pre-arrest bail and further submits that he is ready to co-operate with the investigation, if such bail is granted.

In this context, Mr. Parasar, the learned Additional Public Prosecutor, has submitted that the materials available in the case diary indicate that an order was made in favor of the present accused/petitioner. However, upon inquiry by the Investigating Officer (IO), it was found that no such letter was issued directing the petitioner to carry the iron joist, etc. Additionally, a certificate was issued by the department stating that Shri Manjit Mahanta, Chief Engineer PWD, Chandmari had never issued such an order to the Executive Engineer, PWD(R), Goalpara. He further submitted that if the petitioner is a laborer by profession, it is improbable that such an order would be issued in his favor. He submits that custodial interrogation would be necessary to unearth the facts of the case and, therefore, raised an objection to the prayer made by the learned counsel for the petitioner.

Hearing the submissions made by the learned counsels of both sides and after perusal of the case diary and the case record, it is seen that there is no such name mention like Arupjyoti Daimary, but, it is the petitioner himself who is the beneficiary of the said fake and forged order. As such kind of letter was never issued by the Chief Engineer PWD, Chandmari addressing to the Executive Engineer, PWD(R), Goalpara.

Considering the nature and gravity of the offence, I find that custodial interrogation of the accused/petitioner may be necessary to unearth some more facts of the case and accordingly, I am of the view that this is not a fit case

where the privilege of pre-arrest bail can be extended to the accused/petitioners at this stage and accordingly, the same stands rejected.

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

The Case Diary be sent back.

JUDGE

Comparing Assistant