

GAHC010139532024



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

Case No. : Bail Appln./2045/2024

MEDABALIMI SRINIVASA RAO
S/O- LATE MEDABALIMI CHINAANKAIAH RAO.
PERMANENT ADDRESS-
FLAT NO-104,
CENTRAL PARADISE APARTMENT, BHABHU KHAN LANE, NEW PJR
NAGAR,
GACHIBWOLI, HYDERABAD,
P.S- GACHIBWOLI,
DIST- RANGAREDDY,
STATE-TELANGANA, PIN-500032,

PRESENT ADDRESS-
FLAT NO-2A,
NIRUPAM APARTMENT, TARUN NAGAR, NEAR ABC BUS STOP, GUWAHATI,

P.S- DISPUR, DIST- KAMRUP (M), PIN-781006

VERSUS

CENTRAL BUREAU OF INVESTIGATION
REP. BY THE STANDING COUNSEL CBI

Advocate for the Petitioner : MS ANKITA DAS

Advocate for the Respondent : SC, CBI

**BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI**

ORDER

Date : 24.07.2024

Heard Mr. K.N. Choudhury, learned Senior counsel, assisted by Mr. T. Deuri, learned counsel for the accused petitioner and Mr. M. Haloi, learned Standing Counsel appearing for the respondent CBI.

2. By filing this application u/s 439 Cr.PC, the accused/petitioner namely, **Medabalimi Srinivasa Rao** has prayed for granting bail in connection with case No. RC0172024A0002/2024 u/s 7 of Prevention of corruption Act, 1988 (herein after PC Act).

3. The instant case was registered on the basis of the complaint lodged by the complainant dated 26/06/2024 being partner of S.S.S Construction company, Guwahati before the CBI, ACB, Guwahati wherein it was alleged that their firm deals in civil construction related works. During FY 2016-2017, the said firm constructed foundation of farm tanks at Bhramaputra Industrial Park, North Guwahati which was allotted by Marico India Pvt Ltd. As per agreement, the work was under composite scheme. The total amount in that year was of Rs. 52 Lakhs of the said work and their firm paid half of the taxable amount as per norms. In the said financial year, the firm had also executed another work contract amounting to Rs. 7 to 8 lakhs and they have also paid the entire due taxable amount for the said work. But even after paying all the due tax amount, the firm have been served the demand and show cause notices by the present petitioner as Assistant Commissioner, CGST Commissionerate, Guwahati and the informant has been called a number of times to the office of the accused.

4. The allegation against the accused/petitioner is that on 20/06/2024, while the complainant visited the office of the accused/petitioner and enquired about the matter, the petitioner demanded Rs. 2 Lakhs as bribe for passing favorable order and after negotiation agreed to accept Rs. 50,000/- and directed to pay the same through his junior and subsequently the complainant paid the said amount to the petitioner through online mode. Thereafter, a trap was laid against the petitioner and he was arrested subsequently.

5. It was argued by the learned Senior Counsel that the accused/petitioner is the central government employee, serving as Assistant Commissioner CGST, Guwahati at the relevant time. On perusal of the pre- trap memorandum as well as post-trap memorandum dated 29/06/2024, it becomes evidently clear that except the complainant there is neither any witness nor the recording of any telephonic conversations or transcripts of the conversation between the complainant and the accused/petitioner to substantiate the fact that the accused/petitioner had demanded an amount of Rs. 2 Lakhs as bribe from the complainant and finally agreed to accept an amount of Rs. 50,000/-.

6. It is also the submission of the learned senior counsel that the accused has been languishing in judicial custody for last 26 days since his arrest on 29/06/2024. The preliminary investigation of the case is over, as such further custodial detention of the petitioner may not be necessary.

7. By referring the judgment of Hon'ble Supreme court in the case of ***Ragbir Singh vs. State of Punjab*** reported in AIR 1976 SC 91, learned senior counsel has pointed out that in the said case, Hon'ble Supreme Court has held that where a trap is laid for a public servant, it is desirable that the marked currency notes, which are used for the purpose of trap, are treated with phenolphthalein powder so that the handling of such marked currency notes by

the public servant can be detected by chemical process and the court does not have to depend on oral evidence which is sometimes of a dubious character for the purpose of deciding the fate of the public servant.

8. In view of the above, the learned counsel for the petitioner prays to release the accused/petitioner on bail.

9. In response, Mr. Haloi, has vehemently opposed in granting bail to the petitioner by stating that a trap was successfully laid on 29/06/2024 and the accused/petitioner was caught red handed at his residence in Guwahati while demanding and accepting undue advantage of Rs. 50,000/- through electronic/online mode and other Articles like whisky, food items etc. in presence of the independent witnesses during trap proceedings.

10. It is further submitted that the accused/petitioner directed the complainant to make the payment to one of his friend's wife's mobile number. Then the complainant sent Rs. 1/- on the said mobile number through his Phonepe number. The same was confirmed by the accused petitioner over phone form the other side. Thereafter, the complainant made the remaining payment of Rs. 49,999/- on the same number. Thus there is sufficient evidence to establish the demand and acceptance of undue advantage by the accused petitioner.

11. According to learned standing counsel CBI, search was also conducted at permanent residence of the petitioner at Hyderabad where property papers suspected to be amassed wrongfully, were seized with a locker key. The locker could not be operated due to unavailability of the wife of the accused petitioner at Hyderabad and the same is yet to be opened for the purpose of investigation. It is further submitted that as further investigation regarding the alleged offence

is going on as such the petitioner may not be enlarged on bail.

Learned Standing counsel CBI has placed reliance on the following case laws –

- a. Subramanian Swamy vs. Manmohan Singh, reported in (2012) 3 SCC 64.*
- b. K.C. Sareen vs. CBI, reported in (2001) 6 SCC 584.*
- c. Y.S. Jaganmohan Reddy vs. CBI, reported in (2013) 7 SCC 439.*
- d. P. Chidambaram vs. Directorate of Enforcement, reported in (AIR 2019 SC 4198).*

12. Having heard the learned counsel for the parties and on perusal of the case diary, it reveals that the allegation against the accused/petitioner is that he demanded Rs. 2 Lakhs from the complainant as bribe and on negotiation he accepted Rs. 50,000/- as bribe from the complainant through online mode.

13. There is no hard and fast rule regarding grant or refusal of bail in such type of offence as in the present case. Each case has to be considered on its own merits. The matter always calls for judicious exercise of discretion by the Court. Where the offence is of serious nature, the Court has to decide the question of grant of bail in the light of considerations such as nature and seriousness of offence, nature and character of evidence in support thereof, the severity of the punishment for which conviction will entail the character of the accused, circumstances which are peculiar to the accused, a reasonable possibility of securing the presence of the accused at the trial, the reasonable apprehension of influencing the witness and tampering with the evidence and the larger interest of the public or such similar other considerations.

14. In the case in hand, it appears that the undue advantage of Rs. 50,000/- which was transferred by the complainant on the instruction of the accused petitioner to the account of one Kamala Kumari Ikkurti and according to learned CBI counsel, her statement has not yet been recorded which is the main link in the instant case. If accused is released on bail, there is every possibility of hampering in the investigation.

15. After going into all the details furnished by the respondent/ CBI in the form of objection, without expressing any opinion on merits, this court feels that at this stage, the release of the petitioner would hamper further investigation as it may influence the witnesses. Though, it is pointed out by learned senior counsel for the petitioner that the petitioner is in no way connected with this case, however, in my view, the apprehension raised by the respondent cannot be ignored.

16. Having considered in totality the facts and circumstances of the case, without expressing any opinion on the merits of the case and also with regard to the claim of the respondent, in my view, the petitioner cannot be released on bail at this stage. Accordingly, the bail application is rejected.

17. However, the respondent/CBI is directed to complete the investigation as early as possible and thereafter, the petitioner would be at liberty to move an application before the trial court seeking bail and the trial court will consider the same in accordance with law.

18. Accordingly, the bail application is disposed of.

Return the case diary.

JUDGE

Comparing Assistant