

GAHC010200072024



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

Case No. : Bail Appln./2914/2024

TEJENDRA SAIKIA
S/O SRI GUNINDRA NATH SAIKIA
R/O VILL- MADHUPUR
UNDER NARAYANPUR POLICE STATION,
DIST. LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PP, ASSAM

Advocate for the Petitioner : MR. A M BORA, MR. R BARTHAKUR, MR. M S HUSSAIN, MR. D GAGAI

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

Date : 08-10-2024

Heard Mr. A. M. Bora, learned Senior Counsel, assisted by Mr. D. Gogoi, learned Counsel for the petitioner. Also, heard Mr. D. Das, learned Addl. Public Prosecutor for the State respondent.

2. This is an application under Section 483(1) of BNSS, 2023 for release of the accused petitioner i.e., Tejendra Saikia, on regular bail, who was arrested on 30/08/2024, in connection with ACB Police Station case no. 67/2024 registered under Section 7(a) of Prevention of Corruption Act, 1988.

3. The case of the prosecution is that on 30/08/2024 an FIR was lodged alleging that he is the owner of two numbers of pharmacies at Jail Road, Jorhat and J.B. Road, Jorhat Town respectively, and that on 16/08/2024, while he was present at the pharmacy situated at J.B Road of Jorhat, the accused petitioner who is the then Drug Inspector visited his pharmacy and examined certain pharmacy related documents. It is the further allegation that on 21/08/2024 the accused petitioner called the complainant over phone and since the call got disconnected, the informant called the accused petitioner back and the accused/petitioner asked him to attend the Office of the Drug Inspector after Janmashami. It is the further allegation that on 28/08/2024, when the informant visited the Office of the Drug Inspector, the accused petitioner demanded Rs. 5,000/- as bribe from the complainant to run both his pharmacies smoothly and when the complainant requested to reduce the bribe, the accused reduced the bribe amount to Rs. 4,000/-. It is the further allegation that as the informant was not willing to pay the bribe, he recorded the entire conversation held between him and the accused in a recording device and approached the Vigilance Office for taking legal action against the accused/petitioner. Accordingly, a case was registered.

4. Upon receipt of the FIR, the Deputy Superintendent of Police, Vigilance and Anti-Corruption, Assam (V&AC) enquired into the matter and on the same date i.e. on 30/08/2024 submitted a verification report before the Superintendent of Police V&AC, and on the basis of such verification report the Officer-in-Charge registered the FIR and after trapping the informant he was arrested on 30/08/2024.

5. Mr. A. M. Bora, learned Counsel for the petitioner submits that the petitioner has been languishing in the jail since last 39 days and that during investigation he was examined and his voice sample has also been taken. He further submits that on being trapped the accused/petitioner was arrested and that the accused/petitioner is totally innocent and has nothing to do with the offence alleged.

6. Per contra, Mr. D. Das, learned Addl. P.P. for the State respondent submits that the case diary reveals that substantial cash almost of Rs. 4,09,000/- (rupees four lakh nine thousand) only, has been recovered from the residence of the accused/petitioner and another amount of Rs. 68,300/- (rupees sixty eight thousand three hundred) only has been recovered from his rented house at Jorhat. He further submits that the alleged subject bribe amount in connection with present FIR has also been recovered from a box kept under the table of the accused/petitioner at his office. He further submits that no adverse antecedent has been reported by the Investigating Officer against the petitioner.

7. I have heard the submissions made at the Bar and perused the material available on record.

8. It appears that the Investigation has been substantially progressed. It further appears that the petitioner was last examined on 30/08/2024. It further appears that substantial amount of cash has been recovered from the house of the accused/petitioner. It further appears that the alleged bribe money has also been recovered from under the table of the accused/petitioner from his office. Undoubtedly, the offence is grave and serious. However, the object of bail is not jail but to secure the appearance of the accused during the course of the trial.

9. Considering, that since 30/08/2024, the accused/petitioner has not been examined and the petitioner has already been languishing in the jail since last 39 days, this Court is of the opinion that the bail petition ought to be allowed.

10. Accordingly, it is provided that the accused/petitioner named Tejendra Saikia, shall be released on bail in connection with ACB Police Station case no. 67/2024 registered under Section 7(a) of Prevention of Corruption Act, 1988 on furnishing bail bond of Rs. 30,000/- (rupees thirty thousand) only, with one surety of like amount, to the satisfaction of the learned Special Judge, Assam, subject to the following conditions:-

- (i) The petitioner shall co-operate with the investigation,
- (ii) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of this case so as to dissuade such person from disclosing such facts to the Court or to any Police Officer; and

- (iii) The petitioner shall refrain from such activities with which he is alleged, failing which, bail order shall stand cancelled.
 - (iv) The petitioner shall not leave jurisdiction of the learned Special Judge, Assam without written permission.
- 11.** With the above observations, this bail application stands allowed.
 - 12.** This disposes of the bail application.
 - 13.** Send back the case diary.

JUDGE

Comparing Assistant