

GAHC010217962023



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

Case No. : AB/3371/2023

AFTAB AHMED
S/O- LATE GIYAS UDDIN, R/O- VILL. HATIMURIA, P.O. MOIRABARI, P.S.
MOIRABARI, DIST.- MORIGAON, ASSAM, PIN- 782126

VERSUS

THE STATE OF ASSAM
TO BE REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR A A DEWAN

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

03.01.2024

Heard Mr. A. A. Dewan, learned counsel for the applicant. Also heard Mr. B. Sharma, learned Additional Public Prosecutor for the State respondent and Mr. R. De, learned counsel for the informant.

This application is filed under Section 438 of the Code of Criminal Procedure, 1973, praying for granting pre-arrest bail to the accused/applicant in connection with Moirabari P.S. Case No.87/2023 under Sections 120B/406/419/420/467/468/471 of IPC *read with* Sections 66(c)/66(D) of the I.T. Act, 2000.

Case Diary has been received, and also perused the same.

It is submitted by the learned counsel for the applicant that the applicant is innocent and no way involved in the alleged offence. He also submits that one of the co-accused namely Mubarak Hussain had borrowed a sum of Rs.1 (one) lakh in cash from the applicant and after repeated request he transferred the borrowed money in applicant's account and apart from that he has not received any amount from any other person nor he is involved in the alleged offence. He further submitted that the accused/applicant had never approached before the informant/company/financial institution for availing any loan by providing fake documents i.e PAN, Aadhaar etc.

Further, Mr. Dewan, learned counsel for the applicant has submitted that the statement of the co-accused is not at all sufficient to establish his guilt or

his involvement in the alleged offence. As the present accused/applicant and the co-accused belongs from the same village and occasionally met each other and thus, he is under apprehension that he may be arrested in connection with this case. Hence, he prays for, grant of pre-arrest bail and also states that he will co-operate the investigating agency as and when required, if, the pre-arrest bail is granted to him.

In this context, Mr. B. Sharma, learned Additional Public Prosecutor submits that after rejection of the earlier bail applications, the present application has been filed seeking anticipatory bail on the same ground which the present applicant had already mentioned in his earlier bail application. Also, there is no new or urgent ground to consider his bail application at this stage. More so, the case is at the stage of investigation and the IO has collected sufficient incriminating materials against the accused/applicant. It revealed from the Case Diary that the present accused/applicant along with co-accused are also involved in creating some fake documents in the name of other person to obtain loan and thus, they have already siphoned off a huge amount of money.

He also submitted that from the note of the IO, it has been revealed that some fake accounts have been created by the accused/applicant along with other co-accused in the names of Amit Kumar, Manjeet Singh, Harmeet Singh, Deepak Sharma etc, and an amount of Rs. 30 (thirty) lakhs has already been siphoned off by them. Further, from the materials collected by the I.O and the statement of the co-accused also, it is seen that the present accused/applicant is directly involved in the alleged offence in creating fake documents and accounts in the names of other person. Thus, he submits that custodial interrogation is very much necessary and raised objection in the prayer made by

the learned counsel for the accused/applicant.

In this regard, Mr. R. De, learned counsel for the informant has submitted that, this is an organized crime, wherein the fake accounts were created with some fake documents. Thus, the present accused/applicant along with other co-accused are involved in the alleged offence and they have already siphoned off a huge sum of money. Further, he submits that Mubarak Hussain is the mastermind of the entire crime and he is not supposed to take loan of Rs.1 lakh from the present applicant and there is no clarification as to why and on what basis he gave loan of Rs.1 lakh to the co-accused Mubarak Hussain. It is also submitted that a similar kind of FIR has been registered in other police station wherein around Rs.2,70,00,000/-(Rupees Two crore seventy lakhs) only are already been siphoned off by creating fake accounts from several financial institution. Probability of involvement of the present applicant in other case also cannot be denied at this stage. Thus, thorough investigation is required and hence it is not at all a fit case to extend the privilege of pre-arrest bail to the accused/applicant. Accordingly, he prayed for rejection of the same.

After hearing the submission made by the learned Advocates of both sides as well as perusing the case diary, it is seen that the entire crime is organized one and the involvement of some other persons also cannot be denied at this stage which are yet to be booked by the investigating agency. So, considering the gravity of the offence, I find that custodial interrogation accused/applicant is 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 granted to the accused/applicant at this stage and accordingly, the same stands rejected.

In view of above, this Anticipatory Bail application stands disposed of.

Case Diary be returned.

JUDGE

Comparing Assistant