

GAHC010228552024



2024:GAU-AS:11185

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

Case No. : AB/2883/2024

SEKHAR JYOTI GOGOI
S/O SRI NAGEN GOGOI, R/O VILL- CHAUDANG GAON, P.O.-DIKHARI
KINAR, P.S.-KHOWANG, PIN-785675

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. I H SAIKIA, MR K KASHYAB, MR. M R CHOUDHURY, MR.
K KALITA, MR. B BORAH

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 18-11-2024

Heard Mr. K.N. Choudhury, learned Senior counsel for the petitioner Sri Sekhar Jyoti Gogoi, who has filed this application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 with prayer for pre-arrest bail as he is apprehending arrest in connection with Duliajan P.S. Case No. 201/2024 under

Sections 316(5)/318(4) of Bharatiya Nyaya Sanhita, 2023.

2. Heard Ms. N. Das, learned Additional Public Prosecutor, Assam for the respondent State. Learned Additional Public Prosecutor has raised serious objection against the bail petition stating that there are incriminating materials in the Case Diary against the petitioner.

3. The FIR unfolds that the petitioner is the employee under the informant who is a proprietor of M/S Ajoy Koch & Company and he used to look after the Company's CGST/SGST/Income Tax returns etc. along with another employee namely Rafik Borah. The informant received two summonses from the CGST and on appearing before the authority he was astonished to learn about unpaid liability of CGST/SGST of his Company. Later, he could unearth that the petitioner and the other accused Rafik Borah siphoned off huge amount of money from the informant's bank to their bank accounts in the name of payment of CGST and SGST and furnished false input of CGST and SGST payment. The petitioner had accessed to the password of the informant to conduct all the transactions. On contacting the informant's bank, he learnt that the money which the petitioner was allowed to pay CGST and SGST, has been misappropriated by him.

4. Learned counsel for the petitioner has submitted that the FIR is vague. No offence for fake input credit has been made against the petitioner. There is no direct allegation of defalcation of crores of rupees. Moreover, the co-accused Rafik Borah was granted bail by this Court. The petitioner is a local resident and is willing to cooperate with the remaining part of investigation.

5. I have considered the submissions at the bar with circumspection. I have

also scrutinized the Case Diary. There are indeed incriminating materials in the Case Diary against the petitioner. It appears that if the petitioner is enlarged on pre-arrest bail, investigation may be adversely affected. At this juncture, I am not inclined to grant pre-arrest bail to the petitioner.

6. In terms of above observation, this Anticipatory Bail application stands disposed of.

7. Send back the Case Diary.

JUDGE

Comparing Assistant