

GAHC010230802024



2024:GAU-AS:12419

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

Case No. : AB/3053/2024

IKRAM HUSSAIN
S/O LATE IKBAL HUSSAIN
R/O SANIPUR, MASJID ROAD, GUWAHATI-781009, P.S. BHARALUMUKH,
DIST. KAMRUP (METRO), ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MS. T SOM, MR H DAS, MS. U HAZARIKA

Advocate for the Respondent : PP, ASSAM,

BEFORE
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND
ORDER

09.12.2024

Heard learned counsel, Ms T Som, for the petitioner, Ikram Hussain, who has filed this application under Section 482 CrPC, with prayer for pre-arrest bail as he is apprehending arrest in connection with Bharalumukh PS Case No. 353/2023, under Sections 120(B)/395 IPC, read with Section 25-(I-A) of the Arms Act.

2. Heard Mr R R Kaushik, learned Additional Public Prosecutor for the State of

Assam.

3. I have considered the submissions at the Bar.

4. It is submitted on behalf of the petitioner that although the petitioner is booked under the Arms Act, the petitioner is not complicit as he was not the perpetrator, who used arms to commit dacoity.

5. It is submitted that no overt act has been attributed to the petitioner.

6. The FIR unfolds that a Police Team made by SI Mobarak Ali and SI Anurag Bora of Bharalumukh Police Station, accompanied by some civilians, namely, Khairul Haque, Biki Ali, Sarif Tanwar and Sonu Ali, on 21.11.2023, at about 09:00 pm, conducted a raid in the rented house of Suno Sharma at Athgaon and recovered cash of Rs. 1,69,70000/- (Rupees One Crore Sixty-Nine Lacs Seventy Thousand) from two persons, namely, Debkaran Sen and Manoj Kumar, both from Rajasthan, vide Bharalumukh PS GDE No. 32, dated 21.11.2023. This cash and the two persons, namely, Debkaran Sen and Manoj Kumar were handed over to the officials of the Income Tax Department after following due procedure. However, from confidential sources, it was uncovered that the Police personnel and the civilians looted a bag containing huge amount of cash from the place of occurrence, by threatening and assaulting the inmates in the place of occurrence with their service weapons. Only a part of the money recovered from the above two persons from Rajasthan, was handed over to the Government officials, which resulted in seizure of lesser amount of money found from the rented house of Sano Sharma.

6.1. On receiving the secret information, an enquiry was conducted by the informant under the direction of the DCP, West Guwahati, and it was unearthed that the two Police personnel along with the civilians hatched up a conspiracy for looting the cash from the place of occurrence. During enquiry, one Khairul Haque was picked up and interrogated in the morning of 30.11.2023. During interrogation, Khairul Haque confessed about his involvement in looting the money along with the Police personnel and he stated that the Police personnel, SI (P) Mobarak Ali and SI (P) Anurag Bora, one Reporter, namely, Toufique Ahmed, along with other civilians, namely, Biki Ali, Sarif Tanwar and Sonu Ali, hatched up a conspiracy to conduct raid in the rented house, where a huge amount of cash was stored. The two Police personnel along with Biki Ali, Sonu Ali and Khairul Haque in the pretext of a Police raid, entered into the room occupied by Debkaran Sen and Manoj Kumar of Rajasthan and conducted a search operation and took away a bag filled with cash.

6.2. During investigation, it was unearthed that Rs. 7,30,000/- was recovered from the house of Khairul Haque. Rs. 17,50,000/- was recovered from the house of one Rasiye Begum, as led by SI(P) Mobarak Ali, which was kept concealed by SI(P) Mobarak Ali in Rasiye Begum's house. Rs. 9,00,000/- was recovered from the possession of Nazmul Khan (Little Khan) and Rs. 4,00,000/- was recovered from the possession of Toufique Ahmed. During interrogation, the accused Sarif Tanwar and SI(P) Anurag Bora, also confessed of being in possession of Rs. 7.5 lacs and Rs. 5 lacs, respectively.

7. I have considered the submission that the petitioner is willing to cooperate with the investigation.

8. It is also submitted at the Bar that investigation has been dragging as all the accused could not be apprehended and as the petitioner is willing to cooperate with the investigation, he may be granted bail.

9. Considering all aspects, I deem it appropriate to direct the petitioner to appear before the Elaka Magistrate/jurisdictional Court, and apply for bail, which may be considered by the Court, in accordance with law.

10. Anticipatory Bail Application stands disposed of.

11. Send back the Case Diary.

JUDGE

Comparing Assistant