

GAHC010241902024



2024:GAU-AS:11788

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

Case No. : Bail Appln./3525/2024

ASHIM KUMAR DAS
S/O SRI BHUBAN KUMAR DAS
R/O H/NO. 20, K K HANDIQUE PATH SARUMATARIA, DOWNTOWN, P.S.
DISPUR,
DIST. KAMRUP (M), ASSAM,
PERMANENT ADDRESS- GHAHI,
BEBEJIA, RAHA, DIST. NAGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. A K BHUYAN, MR A TALUKDAR, MR K HUSSAIN, MR. A K HOUND, MR P KALITA

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 27-11-2024

Heard Mr. A.K. Bhuyan, learned Senior Counsel for the petitioner Ashim Kumar Das, who has filed this application under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 with prayer for bail as he is behind bars since

64 (Sixty Four) days in connection with Crime Branch Police Station Case No. 13/2024 under Sections 178/179/180/308/316/318/336/340/351/61 of Bharatiya Nyaya Sanhita, 2023.

2. Learned Additional Public Prosecutor, Assam Mr. D. Das has raised serious objection stating that the mastermind of this case is the present petitioner.

3. The FIR unfolds that the complainant Sunny Breja lodged an FIR with the Crime Branch Police Station that the accused named in the FIR, which also includes the present petitioner committed financial fraud through forgery, breach of trust and intimidation and extortion. The accused Mr. Arjun Singh Mehta is the mastermind and he has been working in connivance with his accomplices, including the present petitioner. The accused Arjun Mehta has been running his company AVPL for illegal activities of inducing small companies like PIT and the fake AWDC Gang conspired against the complainant in order to siphon off huge amount of money for wrongful gain. Arjun Singh and his team approached the company of the informant through middleman and close associate Mr. Amit Jalali by projecting expertise in order to influence the informant's company. Amit Jalali and Arjun Mehta also promised to provide tender for bed sheets worth Rs.15 crores with high profit margin. Several other promises were also made and after almost two months of discussions i.e. on 19.06.2024, without taking the informant's company into confidence, AVPL through Arjun Mehta took the signed and sealed order of purchase and hardcopies dated 17.06.2024 from PIT and did not return the hardcopy or softcopy of the purchase order which was signed and sealed for VC licenses to PIT but two invoices were sent through mail dated 24.06.2024 and 26.06.2024 as acknowledgement of the said PO to deposit the security deposit and

promised that after PIT makes advance payment of Rs.80,00,000/- (Rupees Eighty Lacs), AVPL will provide stamps and Arjun Mehta would sign PO of PIT for the order of bed sheets worth Rs.15 crores.

4. Meanwhile, Arjun Mehta in connivance with Amit Jalali induced and pressurized the informant to make payment to AVPL immediately lest another company would benefit from their orders. Without any formal confirmation, an invoice was raised to the company of the informant and after receiving the same, the shell company AVPL immediately siphoned off the funds to some other kickback companies of Mr. Arjun Mehta. After payment of Rs.80,00,000/- (Rupees Eighty Lacs) to AVPL, Rs.40,000/- (Rupees Forty Thousand) to Mr. Amit Jalali and Rs.5,00,000/- (Rupees Five Lacs) to the present petitioner, the informant sent a staff Mr. Rajeev Ranjan on 30.07.2024 to Secretariat to find out the whereabouts of AWDC and found that the department exists in the name of ADC (Adivasi Development Council) but they were unable to file the PO in their files and the department advised them to check for it later. After this, the shipment of bed sheets worth Rs.1.2 Crores was delivered to AWDC, Changsari against which delivery challans were issued to Mr. B.N. Sarma (The JS of AWDC) in presence of the present petitioner Mr. Ashim Kuamr Das. Later on 31.07.2024, the informant learnt that no such council AVPL exists and the entire amount of Rs.85.4 Lacs and Rs.1.2 Crores were thus misappropriated. It is alleged that the informant's company had to incur huge loss due to the fraudulent acts of the present petitioner and his associates.

5. It is submitted on behalf of the petitioner that the petitioner is willing to return the money. The money was received in his brother's account and the petitioner has returned Rs.2,30,000/- (Rupees Two Lacs Thirty Thousand) on

10.09.2024 and Rs.2,45,000/- (Rupees Two Lacs Forty Five Thousand) on 11.09.2024 i.e. before the FIR was lodged on 18.09.2024 at 5:00 PM. Thereafter, the petitioner has returned the remaining amount of money after the lodgment of FIR.

6. It is submitted that the petitioner is suffering from health issues. He is 41 (Forty One) year old and he is the father of an eight year old daughter.

7. I have scrutinized the Case Diary. Indeed there are incriminating materials in the Case Diary against the petitioner. However, I have considered the progress of investigation. I have considered the documents annexed along with the petition showing the bank statement that the money which has been received in the brother's account has already been returned to the complainant's company.

8. Considering all aspects, I deem it appropriate to grant bail to the petitioner. The petitioner is enlarged on bail on furnishing a bail bond of Rs.50,000/- (Rupees Fifty Thousand) with a suitable surety of like amount to the satisfaction of the jurisdictional Court/Elaka Magistrate under the conditions that :

- (i) the petitioner shall cooperate with the remaining part of investigation,*
- (ii) the petitioner shall appear before the Investigating Officer on every fortnight till completion of investigation,*
- (iii) the petitioner shall not tamper with the investigation or interpolate any documents and,*
- (iv) the petitioner shall not leave the jurisdiction of the Court without prior*

permission.

9. On breach of any of the bail conditions, bail the Court is at liberty to cancel the bail granted to the petitioner.
10. In terms of above observation, this Bail Application stands disposed of.
11. Send back the Case Diary.

JUDGE

Comparing Assistant