

GAHC010243942023



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

Case No. : AB/3692/2023

RAHUL HOQUE
S/O- OMAR ALI, R/O- BHERALDI, P.S- BARPETA, DIST- BARPETA, ASSAM.

VERSUS

THE STATE OF ASSAM
REPRESENTED BY P.P ASSAM

Advocate for the Petitioner : MR S M ABDULLAH P

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 04.01.2024

Heard Mr. S. M. Abdullah P., learned counsel for the petitioner. Also heard Mr. D. Das, learned Additional Public Prosecutor for the State.

This application under Section 438 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, *Rahul Hoque*, who is apprehending his arrest in connection with Goalpara P.S. Case No. 153/2022 under Sections 120B/419/420/406/468/471/506 of the Indian Penal Code.

It is submitted by learned Additional Public Prosecutor that the Goalpara P.S. Case No. 153/2022 has been merged with BIEO P.S. Case No. 14/2022.

The gist of accusation in this case is that on 09.07.2022, one Manowara Khatun had lodged an FIR before the Officer-in-Charge of Goalpara Sadar Police Station, *inter alia*, alleging that the accused No. 1 Sayad Ali had introduced himself as Village Headman and Secretary of the Kabarasthan Committee and was issuing death certificate and birth certificate and other certificates to various people at different times. It is alleged by the informant in the FIR that after the death of the her son, the accused, namely, Sayad Ali came to his house and asked for the Voter ID card, PAN Card and other documents of the informant's son on an assurance that he would help the informant in getting financial assistance from the Government and subsequently Rs.8,00,000/- (Rupees Eight Lakh) was withdrawn from the account of the informant on 25.01.2021 and thereafter on 28.09.2021 Rs.3,50,000/- (Rupees Three Lakh Fifty Thousand) was withdrawn from the account of the informant.

It is alleged in the FIR that the accused No. 1, namely, Sayad Ali and his accomplice i.e., the present petitioner took the money from the informant with a promise to return the said money back to her, however, the same has not been done and it is alleged that the present petitioner and Sayad Ali have siphoned off the money of the first informant. It is also alleged that the first informant was also given an assurance that an LIC policy in the name of the deceased son would also be opened by the said Sayad Ali. It is alleged that they used to open these fake LIC policies and used to embezzle the money out of these policies.

Learned counsel for the petitioner has submitted that the petitioner is in no way involved in the offence alleged in the FIR. It is also submitted that the main accused, namely, Sayad Ali was arrested in connection with this case and later

on he was allowed to go on bail. It is further submitted that the petitioner is ready to cooperate in the investigation, if he is allowed to go on bail.

On the other hand, the learned Additional Public Prosecutor strongly opposed the grant of bail to the present petitioner on the ground that there are materials against the petitioner in the case diary of BIEO P.S. Case No. 14/2022 and he is one of the associates of the main accused, namely, Sayad Ali.

I have considered the submissions made by learned counsel for the petitioner as well as learned Additional Public Prosecutor and have perused the materials on record including the case diary of BIEO P.S. Case No. 14/2022.

It appears from the record that though the alleged offence was committed in the year 2021, the FIR was lodged in the month of July, 2022. It also appears that, in the meanwhile, the Investigating Officer has recorded the statement of many witnesses except the present petitioner. Further, considering the ground that the main accused has already been granted bail, this Court is of the considered opinion that if the petitioner cooperates with the Investigating Officer, custodial detention of the present petitioner may not be necessary for fair completion of the investigation of BIEO P.S. Case No. 14/2022.

In view of the above, the petitioner, namely, *Rahul Hoque* is hereby directed to appear before the Investigating Officer of BIEO P.S. Case No. 14/2022 within a period of ten days from the date of this order and cooperate in the investigation. If he does so within the stipulated period of time, in the event of his arrest, he shall be granted bail of Rs.30,000/- (Rupees Thirty Thousand) only with one surety of like amount to the satisfaction of arresting authority, subject to the condition:-

- (i) That the petitioner shall cooperate in the

investigation and shall appear before the Investigating Officer;

(ii) That the petitioner shall not directly or indirectly make any inducement, threat or promise to any other persons who may be acquainted with the facts of the case so as to dissuade such persons from disclosing such facts before the Investigating Officer;

(iii) That the petitioner shall not leave the jurisdiction of the State of Assam without prior leave of the Investigating Officer.

With the above observations, the instant anticipatory bail application is hereby disposed of.

JUDGE

Comparing Assistant