

GAHC010260622024



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

Case No. : Bail Appln./3735/2024

DR ZAKIR HUSSAIN
S/O LATE ZAHID HUSSAIN
R/O HOUSE NO. 93, BYE LANE - 5,
PRAGATI NAGAR, P.O. UDAYAN VIHAR, P.S. SATGAON,
GUWAHATI, DIST. KAMRUP (M), ASSAM-781171

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. K N CHOUDHURY, MR D KALITA, H CHOUDHURY

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

18.12.2024

1. Heard Mr. K. N. Choudhury, learned Senior Counsel for the petitioner, Dr. Zakir Hussain who has filed this application under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 with prayer for bail as he is behind bars since

16.11.2024, in connection with Crime Branch Police Station Case No. 13/2024 under Sections 178/179/180/308/316/318/336/340/351/61 of the BNS.

2. Heard learned Additional Public Prosecutor, Mr. K. K. Das, Assam for the respondent State.

3. Learned Additional Public Prosecutor has raised serious objection against the bail petition as there are incriminating materials in the Case Diary against the petitioner that the petitioner has introduced the aggrieved to his co-accused who had procured fake work order and sanction.

4. Learned Senior Counsel for the petitioner has submitted that prime-accused Ashim Kumar Das and Arjun Mehta have already been enlarged on bail in connection with this case, and has prayed for bail on the ground of parity as well.

5. It is submitted that the informant tried to procure work order without tender as he is also on the same footing as the accused named in the FIR.

6. The FIR in short unfolds that the present petitioner in connivance with Ashim Kumar Das, Birinchi Borkotoky and other individuals are involved in financial fraud in Assam in the name of Adivasi Welfare Development Council (AWDC) in short. The accused persons named in the FIR as well as the associates manufactured fake documents like work order, sanction letter, memorandum of understanding, sample order, delivery challan etc, by using counterfeit seal and stamp of AWDC, and thereafter, they were successful in hatching up a conspiracy in siphoning of Rs. 85,40,000/-, from the complainant's company.

7. I have considered the submissions at the Bar with circumspection.

8. I have scrutinized the Case Diary. Indeed there are incriminating materials

in the Case Diary against the petitioner. Investigation has progressed substantially. It appears that further custodial detention may not be required. I have considered the submission that the prime accused has been enlarged on bail. The petitioner is willing to abide by any stringent bail conditions if imposed upon him.

9. Considering all aspects, petition is allowed. 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 learned CJM, Kamrup, (M) under the conditions that :

- (i) the petitioner shall refrain from such activities with which he is alleged,
- (ii) the petitioner shall appear before the Investigating Officer on every fortnight till completion of investigation, and
- (iii) the petitioner shall not leave the jurisdiction of the Court without prior permission.

10. On breach of any of the bail conditions, the learned Elaka Magistrate/Jurisdictional Court is at liberty to immediately cancel the bail granted to the petitioner.

11. In terms of above observation, this Bail Application stands disposed of.

Send back the Case Diary.

JUDGE

Comparing Assistant