

GAHC010275182023



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

Case No. : AB/4122/2023

TAYO TAKAM
S/O TAYO TENI
R/O 003, B- SECTOR,
NEAR VETERINARY OFFICE, NAHARLAGUN CIRCLE,
P.S. NAHARLAGUN,
PIN-781110
DIST. PAPUMPARE,
ARUNACHAL PRADESH.

VERSUS

THE STATE OF ASSAM AND ANR, REP. BY THE PP, ASSAM
2: THE SUPERINTENDENT OF STATE TAX
BUREAU OF INVESTIGATION, (ECONOMIC OFFENCE) ASSAM
SRIMANTAPUR, GUWAHATI-3

Advocate for the Petitioner : MR G PHUKAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 02-02-2024

Heard Mr. G. Phukan, learned counsel for the applicant. Also heard Mr. P. S. Lahkar, learned Addl. Public Prosecutor for the State respondent.

Apprehending arrest in connection with BI (E.O)P.S. Case No. 14/2023, under Sections 120(B)/ 419/ 420/ 468/ 471 of IPC, corresponding to G.R.Case No 4425/2023, this application under Section 438 Cr.P.C. has been preferred by the applicant, namely, Tayo Takam for grant of pre-arrest bail.

It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by Sonaram Langthasa, Assistant Commissioner of Taxes, Guwahati on 19.6.2023.

The essence of allegation made in the FIR is that M/s Amit Traders said to have purchased taxable goods from M/s Shree Ram Enterprises registered in Arunachal Pradesh, amounting to Rs. 32.35 Cr. with tax implication amounting to Rs. 5.91 Cr. And the entire purchase was made by M/s Amit Traders from the said tax payer of Arunachal Pradesh on 31.03.2023, in 216 numbers of invoices and M/s Amit Traders have declared to have sold the goods, so purchased from Arunachal Pradesh on the same date to some other taxpayers registered in Arunachal Pradesh and during inquiry it has been found that M/s Amit Traders located at OYO Hotel, Athgaon, Subhas Road, Guwahati, is a non-existent dealer and whereabouts of the proprietor, Shri Amit Sharma is not known and it is also known from further inquiry that M/s Shree Ram Enterprise has wrongfully claimed Input Tax Credit [ITC] amounting to Rs. 116 Cr. out of which Rs. 5.91 Cr. has been passed on to M/s Amit Traders, who in turn, has passed on ITC to other firms located in Arunachal Pradesh and the M/s Amit Traders has obtained GST registration by furnishing false/fabricated documents with criminal intent to defraud the Government of its legitimate revenue.

Mr. Phukan, learned counsel for the applicant submits that the applicant has received one notice u/s 91 Cr.P.C and pursuant to the said notice, he has produced all the relevant documents on 30.12.2023 and that the applicant is

innocent and in no way involved with the offence alleged and he is also ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

Mr. Lahkar, learned Addl. P.P. submits that the I.O. has collected some materials, in support of the allegation made in the FIR, but, the I.O. could not ascertain as to whether the applicant has knowingly received fake ITC or not and in view of the materials available in the case diary, Mr. Lahkar has opposed the petition. Having heard the submission of learned Advocates of both sides, I have carefully perused the petition and the documents placed on record.

In view of the materials collected so far in the case diary and also in view of the nature and gravity of the offence and the punishment for the same, and in view of the co-operation being extended by the accused to the investigating agency, his custodial interrogation of the applicant seems to be not warranted herein this case and accordingly, this Court is inclined to allow this petition. Accordingly it is provided that in the event of arrest of the applicant, in connection with BI (E.O)P.S. Case No. 14/2023, under Sections 120(B)/ 419/ 420/ 468/ 471 of IPC, he shall be released on bail on his executing a bond of Rs.50,000/-with one surety of like amount to the satisfaction of the arresting authority.

The above privilege is, however, subject to the following conditions:

1. That the applicant shall make himself available for interrogation by the Investigating Officer as and when required;
2. That the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer; and

3. That the applicant shall not leave the jurisdiction of the learned CJM, Kamrup(M), Guwahati without prior permission.

JUDGE

Comparing Assistant