

GAHC010279862023



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

Case No. : AB/4182/2023

SOMESWAR NATH
S/O KOLIRAM NATH
R/O K.B. ROAD,
WARD NO. 12, BORMURIA TINIALI
P.S. NORTH LAKHIMPUR
DIST. LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM ,REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. B CHOWDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 04-01-2024

Heard Mr. B. Chowdhury, learned counsel for the applicant and Mr. K. Baishya, learned Additional Public Prosecutor for the State respondent.

Apprehending arrest in connection with the Bihpuria P.S. Case No. 181/2023, under Sections 420/406/468/34 of the IPC, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicant namely,

Someswar Nath for grant of pre-arrest bail.

The above noted case has been registered on the basis of an FIR lodged by one Minakhi Hazarika, on 12.10.2023. The essence of allegations made in the FIR is that her own brother, Shri Munindra Hazarika and one Sri Debananda Saikia have received a sum of Rs. 7,50,000/- from her for providing her a job of School Teacher, in a Government school and after some days of receiving the amount, they have handed over her one appointment letter and when she reported the Head Master of the said school for joining, she came to know that the appointment letter, so handed over to her, is a fake document prepared with forged seal and signature of the officials and thereafter, on being asked, the accused persons have failed to return the amount.

Mr. Choudhury learned counsel for the applicant submits that the ground for filing of this second application is, in connection with the aforementioned case, that two accused have already been arrested and both of them were granted bail by this Court and that the applicant is innocent and no way involved with the offence alleged in the FIR and no departmental proceeding has also been initiated against him and therefore, Mr. Choudhury contended to allow the petition.

On the other hand, Mr. Baishya, learned addl. P.P. submits that the I.O. has collected some materials in support of the allegation made in the FIR and that one of the arrested accused person has implicated the present applicant with the offence alleged in the FIR and that during investigation, the statement of the accused is sufficient and the investigation is going on and the fake FSL letter has already been sent to the FSL for examination and therefore, Mr. Baishya has opposed the petition.

Having heard the submission of learned Advocates of both sides, I have gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Baishya, learned Addl. P.P.

It appears that no much headway could be achieved by the I.O. in investigation of the case, after arrest of two co-accused, namely, Munindra Hazarika and one Debandnda Saikia, except however, sending the fake appointment letter to the FSL for examination.

But in view of the materials so far collected in the case diary, this Court is of the view that it cannot be said, at this stage that custodial interrogation of the applicant is not required, in the interest of investigation. There is specific allegation made against him by one of the co-accused in respect of payment of money for the fake appointment letter and on such count, custodial interrogation of the accused seems to be indispensable, in the interest of investigation.

Moreover, the ground assigned for filing this second bail application is also found to be not satisfactory, in as much as the same cannot be reckoned as change of circumstance in favour of the applicant. And accordingly, petition stands dismissed.

Case diary be returned.

JUDGE

Comparing Assistant