

GAHC010284012023



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

Case No. : AB/4234/2023

KHANINDRA KUMAR NATH
S/O LATE JOY CHANDRA NATH
R/O SARU SAJAI (NEAR SARU SAJAI STADIUM), GOROLIA
P.O. SAOKUCHI, P.S. BASISTHA,
DIST. KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. J I BORBHUIYA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 11.01.2024

1. Heard Mr. J.I. Barbhuiya, learned counsel for the petitioner, Sri Khanindra Kumar Nath.
2. The petitioner has filed this bail application under Section 438 Cr.P.C., with prayer for releasing him on pre-arrest bail as he is apprehending arrest in

connection with ACB P.S. Case No. 37/2022 under Section 120B of IPC read with Section 7(a) of the Prevention of Corruption Act, 1988.

3. Also heard Mr. BB Gogoi, learned Addl. Public Prosecutor for the State respondent.

4. The FIR unfolds that on 27.08.2022, the father of the informant had purchased a Titasopa Tree from one Sri Buddiram Brahma of Feruabari, for an amount of Rs. 1,02,000/- for the purpose of construction of informant's house. Thereafter, on 03.09.2022, when the said tree was cut, the present petitioner who being the ACF of Forest Department, Kachugaon Division, Gossaigaon alongwith his staff namely Kamini Narzary recovered the logs with the help of tractors, and no seizure list was prepared in this regard. On the next day, when the informant contacted the present petitioner, the petitioner informed the informant to contact Kamini Narzary. When the informant called Kamini Narzary, the informant was asked to contact Raja. Then the person named Raja told the informant that the present petitioner was preparing an FIR against the informant and his family members for retaining illegal timber and the informant was then asked to pay gratification of Rs. 40,000/- so that no FIR would be lodged against the informant and his family members relating to retaining illegal timber. Thereafter, on 08.09.2022, the informant was asked to meet Kamini Narzary. Accordingly, the informant met Kamini Narzary at Gossaigaon. Kamini Narzari, asked the informant to pay Rs. 25,000/-. Thereafter, the present petitioner again demanded Rs. 10,000/- to debit as fare of the tractor.

5. The learned counsel for the petitioner has submitted that the petitioner being promoted to DCF was not present at the place of occurrence at the relevant time and he was on casual leave with effect from 12th to 14th

September, 2022 and Annexure 4 clearly reflects that the petitioner was on headquarter leave with effect from 09.09.2022 to 14.09.2022 and he was not present at the relevant time in the place of occurrence. Three notices have been issued by the I.O. to petitioner to appear before him and he could not appear as the petitioner was a cancer patient and he was ailing and he fell down in the washroom. The Annexure-8 of the petition clearly reveals that the petitioner slumped in the washroom. It is also submitted that the petitioner is suffering from heart disease and had undergone open heart surgery.

6. I have perused the documents i.e. Annexure- 5 and Annexure -9 of the bail petition relating to the petitioner's treatment.

7. The learned Addl. PP has raised serious objection stating that there are incriminating materials against the present petitioner in the case diary.

8. I have considered the submission of the learned counsel for the petitioner that the petitioner is suffering from cancer and a heart patient and his ailment is serious in nature. I have also considered the submission that the petitioner is willing to co-operate with the investigation.

9. The case diary also reflects that investigation has progressed to a considerable extent.

10. The petitioner has made out a prima facie case for pre-arrest bail.

11. In view of the above, in the event of arrest of the petitioner, in connection with the aforementioned case, be released on pre-arrest bail on furnishing a bond of Rs. 50,000/ with one surety of the like amount to the satisfaction of the arresting authority.

12. The bail is granted on the following conditions:- :

- (1) the petitioner shall refrain from such activities with which he is alleged,
 - (2) the petitioner shall appear before the I.O. within 15 (fifteen) days from today and shall cooperate with the investigation, and
 - (3) the petitioner shall not hamper with the investigation or tamper with the evidence of the case.
13. On breach of any of the conditions, the bail order shall stand cancelled.
 14. Bail application stands disposed.
 15. Return the case diary.

JUDGE

Comparing Assistant