

GAHC010288692023



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

Case No. : AB/4288/2023

PUTUL DAS
S/O RATNESWAR DAS
R/O VILL- ROHAMORIA BOROTICHUK GAON,
P.O. GORPARA (DIKOM), DIST. DIBRUGARH, ASSAM

VERSUS

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

Advocate for the Petitioner : MR SARFRAZ NAWAZ

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

23.01.2024

Heard Mr. S. Das, learned counsel for the applicant and Mr. P.S. Lahkar, learned Additional Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with the **B.I.[E.O.] P.S. Case No. 21/2023**, under Sections 120[B]/379/411/119 of the IPC, read with Sections 35/41 of the Assam Forest Regulation Act, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicant namely, **Putul Das** for grant of pre-arrest bail.

3. It is to be noted here that the above noted case has been registered on the basis of one FIR lodged by one Sanjib Kumar Goswami, Inspector of Police, BIEO, Assam, on 25.08.2023. The essence of allegation made in the said FIR is that on the basis of news item published in Axomia Pratidin on 04.03.2023, a preliminary enquiry was conducted by Shri Amrit Ch. Kalita, Dy.S.P. CM's SVC, Assam and a report, vide PE No.05/2023, was submitted, which indicates that several persons, namely, Dandinath Missong, Dimbeswar Mipun, Memsura Missong, Mona Missong and Chandra Missong of Village Dadhiya, under Chabua P.S. are involved in smuggling timbers illegally from Dibru- Saikhowa National Park.

The report also indicates that several saw mills, namely, Khan Saw Mill, Santosh Kumar Dhelia Saw Mill, Raj Saw Mill, Rupai Saw Mill, Asu Das, Mukti Singh, Ramavater Saw Mill, Das & Das Saw Mill, which are set up on the river bank of Brahmaputra, near Dibrugarh Town, collects the logs from the river and transported it after sawing.

The report further indicates that one Pradip Medhi, Writuraj Buragohain, Raju medhi, Kalyan Sonowal, Mohan Sonowal, Hemanta Moran, Gunin Gogoi, Dharani Gogoi, Sanjoy Sharma and Wajid Khan of Tinsukia district have been running timber business covering Assam Arunachal border area. Further, the report indicates that local Forest Officials of Sadiya, Doom Dooma, Talap, Tinsukia, Dibrugarh, Guijan Range and Saikhowa Wildlife Range and Police Officials are aware about such illegal trade.

4. Mr. Das, learned counsel for the applicant submits that this is the second anticipatory bail application filed by the applicant, on the following grounds :-

[i] that, since the rejection of earlier anticipatory bail application, being AB No. 3082/2023, more than 4 [four] months elapsed and in the

meantime the investigation might have progressed significantly;

[ii] that, no notice has been served upon the applicant under Section 41[A] of the Cr.P.C., in view of the judgment of Hon'ble Supreme Court in the case of Arnish Kumar;

[iii] that, some of the co-accused, who were arrested here in this case, have already been granted bail by the learned court below; and

[iv] that, the applicant is ready to cooperate with the investigating agency.

Under the aforementioned facts and circumstances, Mr. Das contended to allow the petition.

5. On the other hand, by producing the Case Diary before this Court, Mr. Lahkar, learned Additional Public Prosecutor submits that the investigation is still going on and the IO has collected sufficient incriminating materials to show the complicity of the applicant with the offence alleged in the FIR. Mr. Lahkar further submits that the notice under Section 41[A] of the Cr.P.C. can be served upon the applicant at any point of time and that his custodial interrogation is required, in the interest of investigation and therefore, Mr. Lahkar contended to dismiss the petition. Mr. Lahkar also submits that the learned court below considering the period of detention, granted bail to some of the co-accused arrested here in this case.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the Case Diary produced before this Court with the assistance of learned Additional Public Prosecutor.

7. The case diary indicates that the investigation is still going on and some of the co-accused are yet to be arrested. It is however a fact that about 4

months have been elapsed since rejection of the earlier anticipatory bail, being AB No. 3082/2023, but, no significant progress could be achieved by the IO till date.

8. Having regards to the nature of accusation and the materials so far collected in the case diary and also in view of the submission of learned counsel for both the parties, this Court is of the view that the grounds so assigned by the applicant for filing this second anticipatory application, are not at all sustainable. In view of the stage of investigation and nature of accusation, this Court is of the further view that the custodial interrogation of the applicant is indispensable.

9. Accordingly, this AB stands dismissed.

10. The case diary be returned.

JUDGE

Comparing Assistant