

GAHC030002262024



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

Case No. : AB/4/2024

Ram Muni Chakma and Anr.
Bagan Para, Kamalanagar, Mizoram 2: B Bonny Lalsangzuala
kamalanagar-I
Mizora

VERSUS

State of Mizoram
Aizawl

Advocate for the Petitioner : Mr H Lalmuankima

Advocate for the Respondent : P.P./Addl.PP, Mizoram

B E F O R E
HON'BLE MRS. JUSTICE MARLI VANKUNG
O R D E R

10.04.2024
(Wednesday)

Heard Mr. H. Lalmuankima, learned counsel for the applicants/petitioners along with Mrs. Linda L. Fambawl, learned Addl. Public Prosecutor for the State respondent.

2. This is an application filed under Section 438 of the Code of Criminal Procedure for granting anticipatory bail to the applicants.

3. The learned counsel submits that a written complaint was submitted to the Mizoram Lokayukta against the petitioner No.1 for the alleged mismanagement of Govt. money sanction amounting to Rs.74.175 lakhs in favour of LAD, CADC for construction of drainage system of Kamalanagar-III during 2019-2020 by abusing his official position as head of LAD, CADC. The complaint was forwarded to ACB by the Mizoram Lokayukta for conducting preliminary enquiry and hence, SP-cum-OC/, ACB-PS registered ACB PS Enquiry No. 4/2023 dated 18.04.2023 was duly registered. During the course of the enquiry the petitioner No.2, who was assigned to Work Supervisor was arrayed as the co-accused person.

4. The learned counsel further submits that on due enquiry it was revealed that the works that was executed for the amount of Rs.74.175 lakhs which was sanctioned for the procurement of Garbage Tipper and for the construction of drainage system at Kamalanagar-III during 2019-2020 did not commensurate with the sanction amount. On submission of the enquiry report to the Mizoram Lokayukta on 31.05.2023, the Lokayukta ordered the ACB to conduct full investigation of the matter and on 21.07.2023 the enquiry officer submitted an FIR to the OC/SSB, ACB, Mizoram praying for registration of a Criminal case against the (2) two petitioners and hence ACB PS. Case No.5/2023 dated 21.07.2023 under Section 13(1) (a)(b)/13(2) P.C. Act, 1988 read with Section 409/34 IPC was registered. Thereafter, the matter was endorsed for investigation to the concerned officer, ACB.

5. The learned counsel submits that the petitioners are not involved in any criminal case and they had approached the Court of Special Judge, P.C. Act vide Anticipatory Bail No. 13 of 2023 arising out of ACB PS Case No. 5 of 2023 which was disposed vide the order dated 29.11.2023 wherein they had prayed for Anticipatory bail was rejected.

6. The learned counsel submits that both the petitioners are innocent and were simply performing their official duties for the execution of work for the construction of drainage system at Kamalanagar-III. He therefore submits that they may be granted anticipatory bail in the event of the arrest since an FIR has been registered against them and they are likely to be arrested soon.

7. He further submits that both the petitioners would cooperate in the investigation of the case and will not tamper with the investigation of the case. That they will be available as and when their presence is required.

8. Mrs. Linda L. Farnbawl, learned Addl. P.P. on the other hand submits that the charge sheet in the instant case has not been submitted till date and it appears that there could be other more high profiled persons involved in the instant case. The learned Addl. Public Prosecutor submits that granting Anticipatory bail to the petitioners at this stage may not be appropriate since charge sheet has not been filed till date.

9. Having heard the submissions made by both the parties, this court on considering the fact that both the petitioners are permanent resident of Kamalanagar and neither of them have any previous or any pending criminal case against them, find it appropriate at this stage to grant them anticipatory bail. Thus in the event of arrest of the petitioners they shall be allowed bail, each with a bail bond of Rs.50,000/- (Rupees fifty thousand) only and each with 2 (two) sureties of the like amount who shall be the permanent residents of Kamalanagar. The bail will also be subject to the following conditions;

1) The petitioners shall make themselves available for interrogation by the ACB as and when required,

2) The petitioners shall not directly or indirectly make any inducement thread

or promise to any person acquainted with the facts of the case so as to this dissuade him from disclosing such fact to the court to the investigating agency.

3) The person shall not leave the State without previous permission of the Court.

10. Accordingly, the Anticipatory Bail application No.4/2024 stands allowed and disposed of.

JUDGE

Comparing Assistant