

GAHC010052602024



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

Case No. : AB/659/2024

SHASHWANT SINGH @ SRI SHASHWAT SINGH BUNDELA
S/O SRI YADVENDRA SINGH BUNDELA, RESIDENT OF TAAL DAEWAJA,
TIKAMGARH 47200. MADHYA PRADESH

2: DILIP SINGH BAGHEL
S/O SRI B.S BAGHEL
RESIDENT OF 468
WARD NO. 7
PATNA HOUSE
KHUTEHI
HUZUR
REWA
486001. MADHYA PRADESH

VERSUS

THE STATE OF ASSAM
REP BY THE PP ASSAM

Advocate for the Petitioner : MR. N MAHAJAN, MR. A CHAUDHURY, MR. D BORA, MR S H
SIKDAR, MR. P K DAS

Advocate for the Respondent : PP, ASSAM, MR. A K BHUYAN, MR. M MORE

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

20.09.2024

Heard Mr. B.K. Mahajan, learned counsel for the petitioners. Also heard Mr. A.K. Bhuyan, learned counsel for the informant and Mr. M. Phukan, learned Public Prosecutor, Assam.

2. By filing this petition under Section 438 of Cr.P.C., the accused-petitioners, namely, **Shashwat Singh @ Sri Shashwat Singh Bundela and Dilip Singh Baghel**, have prayed for grant of bail who are apprehending arrest in connection with CID PS Case no. 16/2023 u/s 120(B)/ 255/ 256/ 257/ 259/ 260/ 406/ 417/419/ 420/ 463/ 465/ 466/ 468/ 471/ 472/ 474/ 506 IPC read with section 7(1) and 7(2) of the State Emblem of India (Prohibition of improper use) Act, 2005.

3. The prosecution case in brief is that an FIR has been lodged on 10/10/2023 by the informant who is the director of Sabharwal Trading Pvt Ltd before the CID Assam, stating inter alia that the petitioners along with five other co-accused had conspired to deceive the informant and his company believing the authenticity of a government contract. It is further alleged in the FIR that the accused persons cheated and defrauded the informant and the victims by impersonating them as public servants, counterfeiting government seals and using forged documents to cause financial loss. Accordingly, a case was registered vide CID PS case no. 16/2023.

4. Learned counsel for the petitioners has submitted that the petitioners are in no way connected with the allegations as contained in the FIR, but apprehend arrest in connection with the instant case as their names appear in the FIR and the police personnel used to visit their respective houses in search of them.

5. It is further submitted that the petitioner no. 1 is a political activist, affiliated to a renowned political party in Tikamgarh, constituency of Madhya Pradesh and the petitioner no. 2 is a business man by profession. According to the learned counsel for the petitioners, a plain reading of the entire allegations in the FIR would reveal that the prime accused and the master mind behind the entire conspiracy is one Khushdeep Bansal, who is a professional fortune teller and he along with his brother Harish Bansal had defrauded the complainant with connivance of one Partha Bhardwaz, who projected himself to be the managing director Matak Autonomous council as well as an officer in the rank of Principal Secretary to the Government of Assam. It is further contended that the entire allegation does not reflect any specific act or any roll on the part of the present petitioners, whereby they had induced the complainant in any manner with the intention of defrauding him.

6. The learned counsel for the petitioners has further argued that on perusal of the FIR it is apparent that the complainant after observing all legal formalities had entered into a Memorandum of Understanding (MOU) and upon being satisfied, the complainant had supplied the articles in question. There is no allegation as regards the articles in question being supplied or handed over to the present petitioners and there is also no allegation that any amount were handed over or paid to the present petitioners.

7. It is also the submission of the learned counsel for the petitioners that on the request of the investigating agency, search warrant was issued and accordingly search was conducted in the residence of the petitioner No. 1, but no any incriminating material was recovered from his residence. During the aforesaid search, the petitioner no. 1 had fully cooperated with the investigating

agency and as such the benefit of pre-arrest bail be extended to the petitioners.

8. Per contra, learned P.P. has submitted that both the petitioners are involved in the alleged offence. At the time of execution of Memorandum of Understanding (MOU), both the petitioners were present along with other co-accused. The petitioner no. 1 and co-accused Pallabi Thakuria, introduced themselves as they were the officials of the Government of Assam. The present petitioners and other co-accused took the complainant and his associates to the office of Matak Autonomous council and false impression was created in the mind of the complainant and his associates that the accounts belong to Matak Autonomous Council , a Government of Assam concern.

9. It is further submitted that during investigation, it has been proved by examination of the authorized officials of Matak Autonomous Council that no such supply orders were ever issued from their office and the documents including MOU, purchase orders, bills etc., issued to the complainant were not legal as well as official documents of the council. None of the accused persons were directly or indirectly associated with Matak Autonomous council in any capacity.

10. According to the learned Public Prosecutor, though charge sheet was submitted against the other co-accused but still the investigation is pending against the present petitioners. Hence, the learned P.P. has prayed for dismissal of the bail application.

11. Mr. A.K. Bhuyan, learned counsel representing the informant, has vehemently opposed in granting bail to the petitioners and submits that the present petitioners actively participated with each other entrapping the

complainant and his associates in an elaborate scheme of fraud cum forgery and as a result of which the complainant and their associates supplied huge consignment of goods. The petitioners along with other co-accused conspired among themselves and induced the complainant and his associates into believing that work assigned was a genuine government contract.

12. It is also submitted that the alleged offence is an economic offence by referring the Judgment of Y.S. Jagan Mohan Reddy vs. C.B. I, reported in (2013) 7 SCC 439, wherein it was held that economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offences having deep rooted conspiracies and involving huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby causing serious threat to the financial health of the country as a whole.

13. In the said case, it was also held that while granting bail, the court has to keep in mind the nature of accusation, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tempered with, the larger interest of the public and other similar considerations.

14. Accordingly, the learned counsel for the informant submits that this is not a fit case to grant the privilege of pre-arrest bail to the petitioners.

15. Having heard the learned counsel for the parties, the admitted position is that the complainant and his associates were cheated and incurred a loss of

huge amount of money to the tune of Rs. 58 crores. The facts and record imply that the granting of bail would hamper the investigation, as the petitioners may influence the witnesses and tamper with the material evidence. Though it is pointed out that the petitioners are in no way connected with the alleged offence, however, on perusal of the case diary/record, it reflects that the apprehension raised by the respondents cannot be ignored by considering the involvement of the petitioners in monetary transactions involving huge sums of money.

16. In view of the above and considering the fact that the case is still under investigation against the present petitioners, without expressing any opinion on the merits of the case, it can be observed that the custodial interrogation of the petitioners is required for effective investigation of the case. Hence, prayer for pre-arrest bail is rejected.

17. The bail application stands disposed of accordingly.

JUDGE

Comparing Assistant