GAHC010017422024

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

Case No. : AB/209/2024

MICHAEL HERENZ
S/O LATE PETER HERENZ
R/O CHRIST CHURCH COMPOND, NEHRU PARK,
OPP. COTTON UNIVERSITY, GUWAHATI-01,
DIST. KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner   : MR. R BORUAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

07.02.2024

Heard Mr. R. Boruah, learned counsel for the applicant and also heard Mr. P.S. Lahkar, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2.   This application, under Section 438 Cr.P.C. is preferred by the applicant, namely,

Michael Herenz, who has been apprehending arrest in connection with Panbazar P.S. Case No.271/2023, under Section 406/420 IPC, for grant of pre-arrest bail.

3.   It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by one Tridib Suni Mochahari on 18.08.2023. The essence of allegation made in the aforesaid FIR is that the applicant, namely, Michael Herenz has transferred a sum of ₹ 9,00,000/- to the account of the Diocese of North East India, Shillong, of which he is the Head and also indulged in some unlawful activities and he created a trust, namely, *The North East India Diocesan Trust Association* and mortgaged a portion of the land to HDFC Bank and deposited the money in the school account fund and also transferred a sum of ₹ 75,00,000/- from the school in Tezpur to *The North East India Diocesan Trust Association*, Shillong and withdrawn another sum of ₹ 1,06,00,000/- for unknown purposes.

4.   Mr. Boruah, learned counsel for the applicant submits that the applicant has received notice under Section 41A Cr.P.C. and pursuant to the said notice, he had appeared before the I.O. on 05.02.2024 and he has been cooperating with the investigating agency and therefore, Mr. Boruah contended that the privilege of pre-arrest bail may be extended to the applicant.

5.   Whereas, Mr. P.S. Lahkar, learned Additional Public Prosecutor, Assam, has produced the case diary before this Court and submits that the I.O. has collected some materials in support of the allegation made in the FIR. However, Mr. Lahkar confirmed that pursuant to the notice under Section 41A Cr.P.C., the applicant had appeared before the I.O. and cooperating with the investigating agency.

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 with the assistance of Mr. Lahkar, learned Additional P.P.

7.   In view of the materials collected so far in the case diary and also in view of the cooperation being extended by the applicant to the investigating agency, this Court is of

the view that custodial interrogation of the applicant may not be required in the interest of investigation and accordingly, this Court is inclined to allow this petition. It is provided that in the event of arrest of the applicant, namely, Michael Herenz, in connection with Panbazar P.S. Case No.271/2023, under Section 406/420 IPC, he shall be enlarged on pre-arrest bail on his executing a bond of ₹ 50,000/- with one surety of the like amount to the satisfaction of the arresting authority. The above privilege is, however, subject to the following conditions:-

(i) The applicant shall make himself available for interrogation by the Investigating Officer as and when required;

(ii) The applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer; and

(iii) The applicant shall not leave the jurisdiction of the learned C.J.M., Kamrup(M), without prior permission.

8. In terms of above, this anticipatory bail application stands disposed of.

9. Case diary be returned.

Sd/- *Robin Phukan*
JUDGE

Comparing Assistant