

GAHC010058362024



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

Case No. : AB/741/2024

SAMIR CHOUDHURY
S/O LATE NURUL HUSSAIN CHAUDHURY, R/O HOUSE NO. 9, SHAKTI PATH,
VISHNU NAGAR, PANJABARI, GUWAHATI, P.O.-PANJABARI, P.S.-SATGAON,
DIST- KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR J ISLAM, P. GHOSH, MR. A M AHMED

Advocate for the Respondent : PP, ASSAM,

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

17.09.2024

Heard Mr. J. Islam, learned counsel for the applicant and also heard Mr. K.K. Parasar, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

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

Choudhury, who has been apprehending arrest in connection with Cyber P.S. Case No.12/2023 under Section 120B/419/420 IPC, read with Section 66(C)/66(D) of the I.T. Act, 2000, for grant of pre-arrest bail.

3. Notably, the said case has been registered on the basis of one FIR lodged by one Papu Gogoi, ACS, Circle Officer, Dispur Revenue Circle, on 02.11.2023. The allegation in essence is that in connection with unauthorized access to the Circle Officer Login (gogoi1234) of Dispur Revenue Circle, he has submitted one report to the Deputy Commissioner, Kamrup(M), on 01.11.2023 and it has come to his notice about mutation order passed online in Dharitree Portal on 05.10.2023, in Case No.MET/DIS/2022-23/96042/OMUT, against a deed, bearing Serial No.6268, dated 31.12.1995, wherein no offline case record of issuance of any notice, order, etc. was found to be available in his office. Thereafter, upon inquiry, the Lat Mandal reported him that neither he conducted any field verification nor any report was submitted by him in respect of the referred mutation case and he also found that there are 33 official operational IP addresses in the office of the Circle Officer, Dispur Revenue Circle and the aforesaid operational IP addresses are not from the official list of the 33 operational IP addresses allotted to the office of the Circle Officer, Dispur Revenue Circle and hence the same were found to be unauthorized and illegal, which requires detail investigation.

4. Mr. Islam, learned counsel for the applicant submits that the applicant is innocent and no way involved with the offence alleged in the FIR and earlier he was granted the privilege of interim pre-arrest bail, but the same was not extended on 03.09.2024 on account of lack of instruction to Mr. Islam, learned counsel for the applicant. Mr. Islam further submits that the application is ready to cooperate with the investigating agency and will appear before the I.O. as and when directed and therefore, it is contended to allow this application.

5. On the other hand, Mr. K.K. Parasar, learned Additional Public Prosecutor, Assam, has vehemently opposed the petition. Mr. Parasar has produced the case diary before this Court and submits that as per note of the I.O., custodial interrogation of the present

applicant is required. However, to a pointed query of this Court, Mr. Parasar has failed to show any statement of the witnesses implicating the present applicant with the offence alleged. However, on the basis of a note, Mr. Parasar submits that the applicant has fraudulently registered a plot of land in his name. But no statement of witness could be produced before the Court to that effect.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the application and the documents placed on record and also perused the case diary with the assistance of Mr. Parasar, learned Additional P.P.

7. It appears that the case was registered on 01.11.2023 and since then, the I.O. got sufficient time for investigation. Further, it appears that the materials collected so far in the case diary fails to disclose any legally prosecutable culpability against the applicant.

8. In that view of the matter, this Court is of the view that custodial interrogation of the applicant may not required in the interest of investigation. And accordingly, this Court is inclined to allow this application.

9. It is provided that in the event of arrest of the applicant, namely, Samir Choudhury, in connection with Cyber P.S. Case No.12/2023 under Section 120B/419/420 IPC, read with Section 66(C)/66(D) of the I.T. Act, 2000, 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 make any inducement, threat or promise to any person, directly or indirectly, 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.

10. In terms of above, this anticipatory bail application stands disposed of. Case diary be returned.

Sd/- *Robin Phuikan*
JUDGE

Comparing Assistant