

AB 3043/2015

BEFORE

HON'BLE MR JUSTICE C.R. SARMA

Heard Mr. B.K. Mahajan, learned counsel appearing for the petitioner. Also heard Mr. B.S. Sinha, learned Addl. P.P., Assam, appearing for the State, who has produced the Case Diary and the instruction received from the I.O..

By this application, filed under Section 438 Cr.P.C, the petitioner, namely, Sri Sobon Narzary @ Lengra, has prayed for pre-arrest bail in connection with Udalguri P.S. Case No. 210/2015 under sections 120(B)/384/109/506 IPC read with Section 7/13 (2) of Prevention of Corruption Act.

The allegations made, against the petitioner, as revealed from the FIR lodged by the informant Sri Daithun Narzary is that, on 21.07.2015, an assistant of Sri Sobon Narzary alias Lengra, a member of NDFB (P), telephonically informed the informant (namely Mr. Dwithun Narzary) that he was called by the Addl. S.P. (H.Q.) Udalguri and accordingly on 22.07.2015, he appeared in the police station, where in he met Sri Bilad Daimari (informant in Udalguri P.S. Case No.209/2015) and Mr. Sobin Daimari (informant in Udalguri P.S. Case No. 208/2015). As alleged in the FIR, he was informed that money would have to be paid to the Addl. S.P. (H.Q.) for his release and that on 23.07.2015, the family members of this informant had to pay Rs. 40,000/- to the Addl. S.P. (HQ) through S.I. Hasthaisula Brahma. It was also alleged that the said informant, subsequently, came to know that S.I. Hasthaisula Brahma had taken money at the rate of Rs. 40,000/- each for the release of Mr. Bilad Daimari (informant in Udalguri P.S. Case No.209/2015) and Mr. Sobin Daimari (informant in Udalguri P.S. Case No. 208/2015). This informant, further stated that they were released from the custody only after receipt of the said amounts by the police officers aforesaid.

Mr. B.K. Mahajan, learned counsel, appearing for the petitioner, has submitted that the O.C., Udalguri P.S., in collusion with the Superintendent of Police and the Deputy Superintendent of Police (I.O.) had forcefully obtained signature of the petitioner on some blank papers and falsely implicated the petitioner, by fraudulently preparing false and concocted FIR against the petitioner and others. It is also submitted that the informants aforesaid i.e. 1. Sri Bilad Daimari, 2. Sri Dwithun Narzari and 3. Sri Sobin Daimari have filed a writ petition, being WP(C) No. 6395/2015, invoking the writ jurisdiction of this Court under Article 226 of the constitution, seeking a C.B.I. enquiry relating to the harassment meted out to the writ petitioners in obtaining their signatures on blank papers and preparation of false FIRs by using the papers signed by the informants.

In support of the said contention, the learned counsel, for the petitioner, has produced a copy of the writ petition No. 6395/2015, filed by the informants aforesaid. It is submitted that the present informant along with the informants in Udalguri P.S. case No. 208/2015 and 209/2015, filed the said writ petition alleging inter-alia, that they were taken to the Udalguri P.S. and unnecessarily forced and harassed to lodge FIR against the petitioners i.e. the accused persons in the said cases. It has also been submitted, by the learned counsel for the petitioner, that the O.C., Udalguri P.S. the S.P. Udalguri and the DSP Udalguri (I.O.), after obtaining signatures of the informants on blank papers falsely prepared the FIRs aforesaid and registered false cases against the petitioner and others.

Mr. B.S. Sinha, learned Addl. Public Prosecutor, producing the instructions, received from the I.O., has submitted that the witnesses namely Sri Pranjit Singh and Sri Bili Basumatary and the informant Sri Bilad Daimari have supported the prosecution case by swearing affidavits. It is also submitted, by the learned Addl. P.P., that the release of the petitioner, on bail, will adversely affect the investigation in the present cases and as such the petitioner should not be released on bail.

I have perused the averments made in the said writ petition. I have also perused the case diary, the written instructions sent by the I.O. and the FIR. The alleged occurrence took place on 22.07.2014 and the FIR was lodged on 26.09.2015. With regard to the delay in filing the FIR, it has been submitted that due to the

eat given by Mr. Sabon Narzary, there was delay in filing the FIR. By filing the said writ petition the petitioners i.e. the informant in the present police case (P.S. Case No. 210/2015) and the informants in P.S. case Nos. 208/2015 and 209/2015, have averred that, at the instruction of the Superintendent of police Udalguri, the O.C. Udalguri P.S. picked up the writ petitioners (i.e. the informants) from their houses and unnecessarily harassed them to lodge fabricated FIR against some of the police officers of the Udalguri Police Station and that, on being refused by the writ petitioners to do so, they were threatened with dire consequences. It has also been stated, in the said writ petition (at paragraphs 7 and 8) that the O.C. of the police station and the DSP of Udalguri District took signatures of the petitioner on some blank papers and that the petitioner came to know that the said blank papers, in which the petitioners' signatures were taken, were used for preparing three false FIRs against S.I. Hasthaisula Brahma and Sri Sabon Narzary alias lengra (both bail petitioners) and the Addl. S.P. (HQ), alleging, therein, that they had taken bribe @ Rs. 40,000/- each for releasing the writ petitioners (i.e. the informants in the said P.S. Cases) from the custody. It has been specifically alleged, in the said writ petition, that the respondents No. 5 and 6 i.e. the S.P. Udalguri and the O.C. Udalguri P.S., by entering into a conspiracy, falsely lodged the said FIRs in the names of the writ petitioners. With the above allegations, the writ petitioners, have prayed for passing order for investigation by the CBI and issue direction not to harass the writ petitioners. From the copy of the order, dated 15.10.2015, passed in the said writ petition (copy produced), it appears that the writ Court, while issuing notice has directed not to harass the writ petitioners without recourse to due process of law.

From the above, it appears that the informants, in the aforesaid cases, have approached this High Court, by filing a writ petition alleging, therein, that their signatures were taken on blank papers and that the FIRs aforesaid were falsely prepared by the respondent Nos. 5 and 6. Allegations have also been made against the DSP, Udalguri, who is the investigating officer in this case. There is no challenge to the fact that the said writ petition has been filed by the informant aforesaid. Admittedly all the said FIRs have been written by the same person, other than the informants and on the same date, bringing almost similar allegations against the police officers and one private person..

In view of refuting the allegations, made in the said FIR, by the informant himself, by filing the writ petition aforesaid and considering entire aspect of the matter, more particularly, the allegation of lodging false FIR in the name of the informant, I find no sufficient reason for custodial detention of the petitioner.

Accordingly, it is ordered that, in the event of arrest of the petitioner, in connection with the above mentioned P.S (Udalguri P.S. Case No.210/2015) he be released on bail of Rs. 20,000/- with one surety of the like amount to the satisfaction of the arresting authority, subject to condition that the petitioner shall not intimidate any person connected with this case and he shall not interfere with the investigation in any manner. He shall appear before the I.O. within 10 days from today and on such other date (s) as may be so required for the purpose of investigation.

The instruction received from the I.O., the copy of the writ petition and the copy of the order, dated 15.10.2015, be kept as part of the record.

With the above, this bail application is disposed of.

Return the C.D.