

GAHC040003672020



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

Case No. : AB 64/2020

1:Taba Katung
S/O Shri Taba Teshi, R/o Model village, Naharlagun, PO/PS Naharlagun, Dist. Papum
Pare, AP

VERSUS

1:THE STATE OF AP
through the Special PP

Advocate for the Petitioner : Rajesh Sonar

Advocate for the Respondent : SPL.P.P.

BEFORE
HONBLE MR. JUSTICE SONGKHUPCHUNG SERTO

ORDER

Date : 30-06-2020

Heard Mr. R. Sonar, learned counsel for the petitioner and also heard Mr. O. Pada,
learned Special P.P. for the State of Arunachal Pradesh.

This is an anticipatory bail application filed under Section 438 of the Cr.P.C., 1973,
praying for pre-arrest bail in connection with SIC (VIG) PS Case No. 468/469/471/120(B) of
the Indian Penal Code, 1860, R/W Section 13(2) of the Prevention of Corruption Act, 1988.

It is submitted by Mr. Sonar that the petitioner is an unemployed youth of only 25
years old with Class-12 passed educational qualification so when an advertisement was

issued on 02.02.2019, by the APSSB, he applied for the job of LDC and appeared in the examination conducted in the month of February, 2020. However, the whole process of the examination was cancelled following a case taken up by the Vigilance Department. And, in that vigilance case, he was made an accused on the charge that he had paid money to the authorities who conducted the examination for his selection. Therefore, he is before this Court praying for pre-arrest bail.

Mr. Sonar also submitted that after the interim prayer of the petitioner was granted by the order dated 08.06.2020 of this Court, he had appeared before the I.O. of the case and his statement has been recorded. Therefore, there is no requirement for taking him into custody any more.

Mr. Pada, learned Special P.P. submitted that for the none appearance of the petitioner before the Special Court and his avoidance of arrest a proclamation notice was issued, therefore, the petitioner cannot be granted anticipatory bail. In support of his submission, Mr. Pada referred to para-16 of the judgment of the Hon'ble Supreme Court passed in the State of **Madhya Pradesh-Vrs.- Pradeep Sharma** reported in **2014 2 SCC 171**. The contents of the para 16 of the judgment are reproduced here below;

"16. Recently, in Lavesb Vrs. State (NCT of Delhi), this Court (of which both of us were parties) considered the scope of granting relief under Section 438 vis-à-vis a person who was declared as an absconder or proclaimed offender in terms of Section 82 of the Code. In para 12, this Court held as under.

"12. From these materials and information, it is clear that the present appellant was not available for interrogation and investigation and was declared as "absconder". Normally, when the accused is "absconding" and declared as a "proclaimed offender", there is no question of granting anticipatory bail. We reiterate that when a person against whom a warrant had been issued and is absconding or concealing himself in order to avoid execution of warrant and declared as a proclaimed offender in terms of [Section 82](#) of the Code he is not entitled to the relief of anticipatory bail."

It is clear from the above decision that if anyone is declared as an absconder/proclaimed offender in terms of [Section 82](#) of the Code, he is not entitled to the relief of anticipatory bail."

Mr. Sonar, learned counsel for the petitioner in reply submitted that the proceedings taken up under Section 82 of Cr.P.C. has already been closed on the appearance of the petitioner before the Special Judge, therefore, the judgment referred to by the learned Special P.P. has no relevance in this case.

Considering the charge levelled against the accused/petitioner and the facts and circumstances of the case and all the developments which have taken place including the fact that the accused/petitioner had appeared before the I.O. and his statement have been recorded and, the fact that the proceeding taken up under Section 82 of Cr.P.C., had also been closed, I am of the view that the petitioner can be granted anticipatory bail.

Accordingly, the petition is allowed.

As such, in the event of his arrest, the petitioner should be released on bail subject to furnishing, a PR bond of Rs 50,000/- along with a surety of the like amount and to the satisfaction of the arresting authority. During the pendency of the investigation, the petitioner should co-operate with the I.O. of the case and should not indulge himself in any act that would either hamper or interfere with the investigation. He should also not leave station without permission of the I.O.

The anticipatory bail is disposed of.

Return the CD.

Let the copy of this order be made available to the learned Special P.P.

JUDGE

Comparing Assistant