

GAHC010123292021



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

Case No. : WP(C)/3799/2021

DR. HARI CHANDRA MAHANTA
SON OF LATE RADHA KANTA MAHANTA,
R/O KUMARANICHIGA, HIRANAGAR, KAKOTY NAGAR, P.O. AND P.S.
DIBRUGARH, DIST. DIBRUGARH, ASSAM-786008

VERSUS

THE STATE BANK OF INDIA AND 2 ORS
REP. BY ITS CHIEF GENERAL MANAGER, LOCAL HEAD OFFICE, N.E.
CIRCLE, DISPUR, GUWAHATI, ASSAM-781006

2:THE BRANCH MANAGER

STATE BANK OF INDIA
DIBRUGARH UNIVERSITY BRANCH
BRANCH CODE 2051
DIBRUGARH
ASSAM-786004.

3:THE INVESTIGATING OFFICER

DIBRUGARH P.S. CASE NO. 646/2021 UNDER SECTION 120B/468/471/409/420
IPC REGISTERED ON 24.03.2021
AT RAJABHETA OUTPOST
DIBRUGARH
ASSAM-78600

Advocate for the Petitioner : MR N DUTTA

Advocate for the Respondent : GA, ASSAM

BEFORE
THE HON'BLE MR. JUSTICE PRASANTA KUMAR DEKA
ORDER

31.08.2021

Heard Mr. A Atreya, learned counsel for the petitioner. Mr. B J Talukdar, learned Additional Senior Government Advocate has produced the necessary instruction in respect of the compliance of the provision under Section 102 of the Cr.P.C. before freezing the account of the petitioner. The petitioner is the Registrar of Dibrugarh University currently under suspension. Dibrugarh P.S. Case No. 646/2021 under Section 120 B/ 468/ 471/ 409/ 420 IPC was registered on the basis of an enquiry report wherein the present petitioner alongwith another official of the said University were accused persons in the said FIR. The petitioner apprehending arrest filed anticipatory bail application bearing AB No. 2075/2021 and vide order dated 28.07.2021 interim anticipatory bail was granted by this court stipulating various terms and conditions. It is submitted by the learned counsel that in terms of the said direction passed in AB No. 2075/2021, the petitioner co-operated with the investigating officer from 04.08.2021 to 11.08.2021 as per the requirement of the investigating officer.

Later, the petitioner came to know that the respondent No. 2, Branch Manager, SBI, Dibrugarh University Branch had frozen his S.B. account No. 10275533860 in connection with the said Dibrugarh P.S. Case No. 646/2021 as per the instruction of the respondent No. 2, the investigating officer in the said Dibrugarh P.S. case No. 646/2021. The petitioner has filed this writ petition for an order allowing him to operate the said SBI account in the said bank to

overcome his health problem which requires surgery and also requirement of finance for his son to carry out higher studies abroad. It is also submitted by the learned counsel that he may be permitted to withdraw the subsistence allowance from the said frozen account. Vide order dated 18.08.2021, Mr. Talukdar was directed to take necessary instruction in respect of compliance of the provision of Section 102 Cr.P.C. before freezing the account of the petitioner. Mr. Talukdar has produced the instruction received from the concerned police official. From the contents of the said instruction it is found that the procedure under Section 102 Cr.P.C. was followed thereby informing the competent Magistrate and the higher authority under the police hierarchy.

In view of the instruction received by Mr. Talukdar, this writ petition accordingly stands disposed of at this motion stage thereby directing the petitioner to file appropriate application before the learned CJM, Dibrugarh alongwith a copy of this order with a prayer for allowing him to operate the said SBI account No. 10275533860. The learned CJM, Dibrugarh thereafter hearing the investigating officer in Dibrugarh PS case No. 646/2021 and also upon consideration of the prayer of the petitioner shall pass an appropriate order considering the financial hardship of the petitioner. Once the application is filed the same shall be disposed of within a period of two weeks from the date of filing of the said application.

JUDGE

Comparing Assistant