

ORDER-SHEET FOR MAGISTRATE'S RECORDS
DISTRICT : SONITPUR.
IN THE COURT OF SESSIONS JUDGE, SONITPUR AT TEZPUR
Criminal (Bail) No. 508/2022

Md. Nakibur Rahman

Vs.

State of Assam

Sl. No. of Orders	Date	Order	Signature
	<u>19-10-22</u>	<p>This is an application u/s 438 Cr.P.C. filed by accused/petitioner Md. Nakibur Rahman seeking pre-arrest bail in connection with Tezpur PS Case No. 999/2022 u/s 409/420 IPC, corresponding to G.R. Case No. 1899/2022.</p> <p>I have heard the learned lawyers appearing for both sides and also gone through the case diary.</p> <p>The allegation in the FIR is that informant was endorsed for holding preliminary enquiry in respect of Tezpur PS GDE No. 481/2022 dated 15-09-2022 which was filed by the then Chief Judicial Magistrate, Sonitpur, Tezpur alleging that accused petitioner Nakibur Rahman who is presently working as Driver of Addl. District & Sessions Judge, (F.T.C.), Tezpur, has illegally collected money from on Martuza Ali and some other persons for arranging job of Driver and Orderly Peon in the office of District & Sessions Judge, Sonitpur, Tezpur. During preliminary enquiry, it is found that accused petitioner illegally took the gratification from one Murtuza Ali and Said Murtuja Ali has categorically stated before him that he has paid ₹50,000/- (Rupees Fifty Thousand) only to Nakibur Rahman with an assurance given by accused petitioner that he has good connection with Superior Officer of Sonitpur Judiciary and accordingly he will arrange the job of driver and orderly peon for said Murtuja Ali.</p> <p>It is submitted by learned counsel for State that the allegation against the accused is very serious in nature who being a member of the Sonitpur District Judiciary involved himself in collecting illegal gratification in the name of providing permanent</p>	

job in court and for that purpose he also involves higher Judicial Officers of the District Judiciary in the process. Therefore, given the serious nature of the allegation, learned P.P. contends that it is not a fit case to consider pre-arrest bail to accused petitioner.

On the other hand, learned counsel Sri S. Borthakur appearing for the accused petitioner contends that accused is a permanent employee of the court and there is no chance of his absconding. The allegations against him are all false and fabricated made only to harass the petitioner. Moreover, in the event, accused is found guilty, there is scope of departmental proceeding and for this purpose accused is always available. The accused could not make himself available before police because of fear of arrest on concocted grounds. Accused is a permanent resident within the jurisdiction of this court having his movable and immovable property. Therefore, learned counsel Sri Borthakur contends that accused may be released on pre-arrest bail under any condition as accused is ready and willing to abide by whatever the conditions imposed by the court. There is no chance of his abscondance or fleeing away from justice. He has his family and old aged parents. Therefore, learned counsel strenuously contended that accused may be enlarged on bail on pre-arrest bail.

Having heard the contention of the learned lawyers appearing for both sides and on careful perusal of the contents of the case diary including FIR, it transpires that accused is a permanent employee of this court being Driver of the court of Addl. District & Sessions Judge, (F.T.C.), Sonitpur, Tezpur and accused not only took ₹50,000/- from Murtuja Ali but also took money from one Pranab Jyoti Borah ₹60,000/- in two installments, one in cash and one in the form of cheque in the name of providing permanent job in court. His modus operandi is also shows that for collecting money, he even used the positions of higher Judicial Officers thereby putting a strain in the name and fame of District Judiciary thereby tarnish the reputation of

		<p>District Judiciary which is the first interface for the public seeking justice and accused being an employee of the District Judiciary dare to do such act which has the propensity of losing the faith of public in the judiciary and it is a serious act of apparent misconduct as well as serious offence which do not deserve to be considered lightly.</p> <p>It is apparently a case of taking illegal gratification by public servant but the case appears not registered in proper provisions of law.</p> <p>Given the seriousness of the allegations made, the contention of the learned counsel appearing for the accused petitioner appears not backed by good reason as the case apparently involves moral turpitude of an employee which has far reaching impact on the institution of judiciary.</p> <p>Therefore, considering all the attending factors, this court do not consider it a fit case to extend the benefit of pre-arrest bail to the accused petition. In the result, bail petition stands rejected.</p> <p>Send back the case diary in seal cover.</p> <p>Accordingly, bail petition is disposed of.</p>	<p>Sessions Judge, Sonitpur, Tezpur.</p>
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