

ORDER-SHEET FOR MAGISTRATE'S RECORDS
DISTRICT : SONITPUR.
IN THE COURT OF SESSIONS JUDGE, SONITPUR AT TEZPUR
Criminal (Bail) No. 566/2022

Africa Payeng

Vs.

State of Assam

Sl. No. of Orders	Date	Order	Signature
	<u>22-11-22</u>	<p>This is an application u/s 438 Cr.P.C. filed by accused/petitioner Africa Payeng seeking pre-arrest bail in connection with Rangapara PS Case No. 139/2022 u/s 406/420 IPC, corresponding to G.R. Case No. 2131/2022.</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 on 01-11-2022 one Jagmeet Singh lodged an FIR in Rangapara PS alleging inter alia that he had entered into an agreement with accused Africa Payeng named in the FIR on 27-01-2014 for construction of RCC bridge No. 1 and for that purpose he kept with informant two cheque amounting to ₹11.50 Lakhs on the condition that the informant will bear the cost of construction of the bridge and on completion of construction of the bridge and release of fund by Government, informant will get the cheque amount of ₹11.50 Lakhs. But, till date accused cheated him on the false promise of giving the same. Finding no way out, case has been filed.</p> <p>It is submitted by learned counsel for State that it is a clear case of cheating as accused under the false pretext of giving money get the work done through the informant and subsequently backtracked which shows his prior criminal intention of cheating. 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.</p> <p>On the other hand, learned counsel appearing for the accused petitioner contends that the allegations made in the FIR</p>	

are all false and baseless and even if it is assumed that there is any such contract then it is a clear case of civil in nature. Moreover, it was a case of 2014 and case has been filed in the year 2022 after lapse of almost of 8 years. Apart from this, for the amount due informant could have filed case against accused under NI Act which has also not been done. Hence, learned counsel for accused petitioner press for 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, it transpires that though police seized the two cheques but it does not contain any date/ dates. Moreover as rightly contended by learned counsel even if such amount is due on the part of the accused, the nature of the case seems to be civil in nature. The ingredients of offence u/s 406/420 IPC appears missing.

Therefore, considering all the attending factors, this court is of the considered view that accused may be released on pre-arrest bail.

Accordingly, the I.O. is directed to release accused petitioner Africa Payeng on pre-arrest bail in execution of a bond of ₹15,000/- (Rupees Fifteen Thousand) only with one local surety of like amount to his satisfaction in the event accused is arrested in connection with the instant case.

Send back the case diary in seal cover.

Accordingly, bail petition is disposed of.

Sessions Judge,
Sonitpur, Tezpur.