GAHC010026732023

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

Case No. : Bail Appln./480/2023

DEEP JYOTI NATH

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE P.P., ASSAM

Advocate for the Petitioner : MR. A GOYAL

Advocate for the Respondent : PP, ASSAM

:: BEFORE ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

O R D E R

22.02.2023

Heard Mr. A. Goyal, the learned counsel appearing for the petitioner. Also heard Mr. D. Das, learned Addl. Public Prosecutor, Assam

representing the State.

This is an application under Section 439 of the CrPC in respect of Dispur P.S. Case No.177/2023 registered under Sections 420 and 408 of the IPC.

The petitioner is an employee Instakart Services Pvt. Ltd. He allegedly misappropriated more than twenty lakhs rupees belonging to the company. Therefore, he was physically handed over to police. The case is registered under Sections 420 and 408 of the IPC.

Referring to Arnesh Kumar v. State of Bihar, reported in (2014) 8 SCC 273, Mr. Goyal submits that in this case, notice under Section 41A of the CrPC should have been served upon the accused. In Satender Kumar Antil v. Central Bureau Investigation and Anr. reported in (2022) 10 SCC 81, the Supreme Court has held that non-compliance of Section 41 and 41A of the CrPC would entitle the accused for grant of bail.

In the case in hand, the petitioner was handed over to police by the informant and no notice under Section 41A CrPC was served upon him.

After perusal of the case diary, I find that simply on an allegation made by the complainant, the petitioner was thrown behind the bars. Therefore, for non-compliance of the provisions of Section 41A of the CrPC, the petitioner is entitled to be released on bail.

Accordingly, the petitioner Deep Jyoti Nath is allowed to go on bail of Rs.25,000/- with a surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup(M), Assam.

Case diary shall be returned.

The bail application is accordingly disposed of.

JUDGE

Comparing Assistant