

GAHC010044662024



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

Case No. : Crl.Pet./240/2024

K RANJAN SINGHA
SON OF K. SATRA SINGHA, RESIDENT OF VILLAGE- BANTARAPUR, P.O.
SUNDARI, P.S. KOCHUDARAM, DISTRICT- CACHAR, ASSAM

VERSUS

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

2:SRI BIKROM TIMUNG
SON OF BABURAM TIMUNG
R/O- VILLAGE- TICHOM GAON
P.O. LONGIT
P.S. BAKALIA
DISTRICT- KARBI ANGLONG
ASSAM
PIN- 78248

Advocate for the Petitioner : MR. B K MAHAJAN

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

04.03.2024

Heard Mr. B. K. Mahajan, learned counsel for the petitioner. Also heard Mr. D. P. Goswami, learned Additional Public Prosecutor for the State respondent.

2. This is an application filed under Section 482 of the Code of Criminal Procedure, 1973 *read with* Sections 397/401 of Cr. P.C. praying for quashing of impugned order dated 06.02.2024 passed by the learned Sessions Judge, Karbi Anglong, Diphu in connection with Bail Application No. 07/2024 arising out of Manja Police Station Case No. 44/2023.

3. Issue notice to the respondents, returnable on 21.03.2024.

4. Since Mr. Goswami, learned Additional Public Prosecutor, has entered appearance and accepted notice on behalf of the State respondent No. 1, no formal notice is required to be issued to the said respondent. However, he shall be provided with requisite extra-copy of the petition, if not already served, during the course of the day.

5. The learned counsel for the petitioner shall take steps for service of notice upon respondent No. 2 by registered post with A/D as well as by usual process within a week from today.

6. Mr. Mahajan, learned counsel for the petitioner has submitted that present petitioner has challenged the order dated 06.02.2024 passed by the learned Sessions Judge, Karbi Anglong in Bail Application No.07/2024, wherein, the District S.P. has been directed to initiate a departmental proceeding against SI

K. Ranjan Singha, the investigating officer of Manja P. S. Case No. 44/2023 and also directed the SP to change the I.O in connection with this case. In this regard, he also submitted that the Sessions Judge has no authority/power to pass an order regarding change of I.O under Section 156 (3) of Cr. P.C., however, such power is only vested to the Magistrate.

7. In addition to his submission, Mr. Mahajan, learned counsel for the petitioner relies on the decision passed by the Hon'ble Apex Court reported ***in 2008 (2) SCC 409 [Sakiri Vasu vs. State of Uttar Pradesh & others]*** wherein, it has been expressed that "the power under Section 156(3) of Cr.P.C. include all such powers in a Magistrate which are necessary for ensuring a proper investigation, and it includes the power to order registration of an F.I.R. and of ordering a proper investigation if the Magistrate is satisfied that a proper investigation has not been done, or is not being done by the police."

8. Accordingly, Mr. Mahajan, learned counsel for the petitioner has submitted that the learned Sessions Judge, Karbi Anglong, Diphu had passed the order dated 06.02.2024 without any authority and hence, he prays for suspension/stay of the order passed in Bail Application No. 07/2024 till completion of hearing.

9. On the other hand, Mr. Goswami, learned Additional Public Prosecutor has requested to call for the case record of Bail Application No. 07/2024 dated 06.02.2024 passed by the learned Sessions Judge, Karbi Anglong, Diphu.

10. Considering the submissions of learned counsels of both sides, execution of the impugned order dated 06.02.2024 passed in Bail Application No.07/2024 by the learned Sessions Judge, Karbi Anglong, Diphu arising out of Manja P. S.

Case No. 44/2023, stands stayed, till disposal of the instant criminal petition.

11. Also, call for the case record of Bail Application No. 07/2024 dated 06.02.2024 passed by the learned Sessions Judge, Karbi Anglong, Diphu. However, the investigation in respect of Manja P. S. Case No. 44/2023 shall be proceeded under the supervision of concerned Superintendent of Police.

12. List the matter on **21.03.2024**.

JUDGE

Comparing Assistant