

GAHC010002642023



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

Case No. : AB/44/2023

PRONUJ KUMAR PEGU
S/O LATE SISHURAM PEGU
PERMANENT RESIDENT OF BLOCK-A,
4B, IDEAL HILL VIEW, NARENGI, GUWAHATI, ASSAM-781026.

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. R DUBEY

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MRS. JUSTICE MALASRI NANDI
ORDER

01.02.2023

Heard Mr R Dubey, learned counsel for the petitioner and Mr D Das, learned Additional Public Prosecutor for the State of Assam.

2. The petitioner has preferred an application under Section 438 CrPC, praying for granting him anticipatory bail in connection with BI(EO) PS Case No. 16/2021, under

Sections 120(B)/420/406/409 of the Indian Penal Code, 1860.

3. The brief facts of the case is that the FIR had been lodged by the informant, Rahul U. Asher, General Manager, IDBI Bank on 13.08.2021, before the Superintendent of Police, Bureau of Investigation (EO), Assam, against M/s Ghosh Brothers Construction and its promoter, Sri Pratul Kumar Ghosh, including bank employee of IDBI Bank, Guwahati Branch. The main allegations are against the promoter Pratul Kumar Ghosh, on account of dishonestly using the credit facilities in violation of the agreement with the Bank. It is stated in the FIR that the firm was initially sanctioned cash credit loan of Rs. 50 lakhs by the then AGM of Guwahati Branch on 18.02.2009 and further renewal and enhancement to Rs. 110 lacs was sanctioned by the then DGM of Guwahati Branch, i.e., the present petitioner, on 20.07.2010. The Bank on examination found that the firm had failed to show that the funds were available with the firm in the form of other assets. It is further alleged that the firm has diverted the funds and also siphoned of the funds lent by the Bank.

4. It is submitted by the learned counsel for the petitioner that the petitioner is presently working as the Deputy General Manager (DGM), Zonal Training Centre, IDBI Bank, Kolkata. The FIR was lodged by one private person and the bank has not made any allegations against the present petitioner. The main allegation against the petitioner is that he has sanctioned the subsequent loan to the construction firm of one Pratul Ghosh and the said firm has diverted the funds and there was also allegation of

embezzlement of funds by the said construction company. Under such backdrop, pre-arrest bail may be granted to the present petitioner.

5. On the other hand, the learned Additional Public Prosecutor has submitted that the FIR was lodged by the General Manager of IDBI bank, alleging that while the present petitioner was working as DGM, IDBI Bank, without verifying the documents as well as spot verification physically, he sanctioned the loan to the proprietor of Ghosh Brothers, but the borrower has diverted the loan, which is illegal and unauthorized as per terms and conditions of the agreement. As such, the petitioner has committed breach of trust and cheating with the bank official by sanctioning the said loan. Hence, pre-arrest bail may not be granted to the present petitioner.

6. I have considered the submissions of the learned counsel for both the parties and also perused the Case Diary.

7. The allegations made in the FIR basically relates to diversion of funds by the loanee and it is not a case where there were irregularities in the sanctioning of the loan amount. It is pertinent to say here that the Bank has made no allegation against the present petitioner that the loan was sanctioned by the present petitioner with an intention to misappropriate the public money.

8. In view of the above and considering the facts and circumstances of the case, this Court is of the opinion that the privilege of pre-arrest bail may be extended to the petitioner. Accordingly, it is provided that in the event of his arrest in connection with

BI(EO) PS Case No. 16/2021, the petitioner, namely, Sri Pronuj Kumar Pegu, shall be released on pre-arrest bail on executing a bond of Rs. 20,000/- (Rupees Twenty Thousand), with one surety of like amount to the satisfaction of the arresting authority. The above privilege is, however, subject to the following conditions:

- (i) the petitioner is directed to appear before the Investigating Officer within a period of 10 (ten) days from today.
- (ii) that the petitioner shall make himself available for interrogation by the Investigating Officer as and when required;
- (iii) that the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer.

9. With the aforesaid observations and directions this Anticipatory Bail Application stands disposed of.

10. Send back the Case Diary.

JUDGE

Comparing Assistant