

GAHC010261102022



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

Case No. : Bail Appln./3553/2022

PRANAB KUMAR GOSWAMI
S/O LT. HARENDRA NARAYAN GOSWAMI
R/O NO. 1 RAILWAY GATE,
WARD NO. 2, P.O. TEZPUR
P.S. LALMATI
DIST. SONITPUR, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR S C DAS

Advocate for the Respondent : PP, ASSAM

Linked Case : Bail Appln./120/2023

RUMI GOSWAMI
W/O- SRI PRANAB KR. GOSWAMI
R/O- KALIPUR
RIVER SIDE
P.O. BHARALUMUKH
P.S. BHARALUMUKH
GHY-09
DIST.- KAMRUP (M)

ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY P.P.
ASSAM

Advocate for : MR S C DAS
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

18.01.2023

Heard Mr. S.C. Das, learned counsel for the accused-petitioners in both the bail applications and Mr. B. Sarma, learned Additional Public Prosecutor for the respondent State of Assam.

2. By the bail application, B.A. no. 3553/2022 under Section 439, Code of Criminal Procedure, 1973 [CrPC], the accused-petitioner viz. Sri Pranab Kumar Goswami has prayed for his release on bail in connection with Panbazar Police Station Case no. 263/2022, registered under Sections 406/409, Indian Penal Code [IPC].

2.1. By the bail application, B.A. no. 120/2023 under Section 439, Code of Criminal Procedure, 1973 [CrPC], the accused-petitioner viz. Smti. Rumi Goswami has prayed for her release on bail in connection with the same crime case, that is, Panbazar Police Station Case no. 263/2022.

3. The accused-petitioner in B.A. no. 3553/2022 viz. Sri Pranab Kumar Goswami was arrested and produced before the Court of learned Chief Judicial Magistrate, Kamrup [M], Guwahati on 25.11.2022 and on being so produced, he was remanded to custody. Thus, since

25.11.2022, he is in custody.

3.1. The accused-petitioner in B.A. no. 120/2023 viz. Smti. Rumi Goswami has been arrested and produced before the Court of learned Chief Judicial Magistrate, Kamrup [M], Guwahati on 15.12.2022 and on being so produced, she was remanded to custody. Thus, since 15.12.2022, she is in custody.

4. The Director of Library Services, Assam has lodged the First Information Report [FIR] on 26.10.2022 against the accused-petitioner viz. Smti. Rumi Goswami, stating that on being directed by the Additional Secretary, Cultural Affairs Department and accorded approval by the Departmental Minister to lodge an FIR in respect of the corruption/illegal transactions done by the accused-petitioner, Smti. Rumi Goswami, former Director of Library Services, Assam, he in the capacity of the Director of Library Services, Assam has lodged the FIR. The FIR has been filed with the request to cause investigation as regards the alleged corruption/illegal transactions in accordance with law.

5. From the materials available in the case diary, collected during the course of investigation carried out so far, produced before the Court today by the learned Additional Public Prosecutor, it has emerged that an amount of Rs. 68,85,340/- was sanctioned for the year : 2019-2020 in favour of the Director of Library Services, Assam from Raja Rammohan Ray Library Foundation. The said amount was withdrawn in 2 [two] installments. The first installment of Rs. 22,72,162/- was credited into the account of the Directorate of Library Services, Assam and the accused-petitioner, Smti. Rumi Goswami who was the Director of Library Services, Assam then, had completed the transactions. Thereafter, the second installment of Rs. 46,13,178/- was sanctioned during the year : 2021-2022 by Raja Rammohan Ray Library Foundation and the said amount was also duly credited into the official account of the Directorate of Library Services, Assam maintained at the HDFC Bank. The accused-petitioner, Smti. Rumi Goswami who was the Director of Library Services, Assam at that point of time, published an NIT in the newspapers and thereafter, the works were shown to be allotted to a number of contractors including [i] M/s Baruah Brothers; [ii] The National Rural Infrastructure Development; and [iii] National Aask Trading Company.

Thereafter, the accused-petitioner, Smti. Rumi Goswami had transferred an amount of Rs. 46,13,178/- prior to her retirement, on different dates as follows :- [1] Rs. 10,00,000/- on 31.12.2021, [2] Rs. 13,00,000/- on 03.01.2022, [3] Rs. 6,00,000/- on 05.02.2022; and [4] Rs. 13,00,000/- on 15.02.2022. All those amounts were transferred from the official account of the Directorate of Library Services, Assam to the personal account of the accused-petitioner, Smti. Rumi Goswami. After retirement, the accused-petitioner, Smti. Rumi Goswami deposited a number of money receipts without the signatures of the contractors thereon, to project a picture that the money had been duly disbursed to the contractors. The accused-petitioner, Smti. Rumi Goswami had, thereby, violated the extant financial rules of disbursement of the contractual amounts to the contractors, which is mandatorily to be disbursed through cheques in the respective accounts of the contractors. Some of the contractors' statements recorded under Section 161, CrPC by the I.O. go to indicate that they did not receive any work orders for supply of materials pertaining to the second installment. One of the contractors, who had executed contracts at the time of first installment, has stated that the accused-petitioner viz. Sri Pranab Kumar Goswami i.e. the husband of the accused-petitioner, Smti. Rumi Goswami was his partner in respect of a contract-work awarded under the first installment. He has stated that he had, later on, come to know that another amount which was part of the second installment was disbursed in the name of his firm, M/s Baruah Brothers, without his knowledge and behind his back, and the entire amount of Rs. 23,44,263/- was disbursed by the accused-petitioner, Smti. Rumi Goswami to the accused-petitioner, Sri Pranab Kumar Goswami i.e. her husband in cash. The accused-petitioner, Smti. Rumi Goswami in her own statement has admitted that she as the Director of Library Services, Assam did not have authority to disburse any amount of more than Rs. 5,000/- in cash and any amount beyond Rs. 5,000/- had to be disbursed through cheque. The materials in the case diary *prima facie* go to indicate that there were misappropriation of a huge amount of money and the mischief is specifically attributed to the two accused-petitioners. The accused-petitioner, Smti. Rumi Goswami seemed to have abused her position of the Director of Library Services, Assam during her tenure and such illegalities had been done in order to gain the illegal benefits for herself and also to bestow illegal benefits to her husband i.e. the accused-petitioner, Sri Pranab Kumar Goswami.

6. The money trails of the alleged misappropriated amount had been found, but the amount so misappropriated, has not yet been recovered. The statements of most of the witnesses from the office of the Director of Library Services, Assam have been recorded under Section 161, CrPC along with other witnesses. The two accused-petitioners have been thoroughly interrogated during the periods of custody. Apart from oral evidence, the case is also based on documentary evidence. The accused-petitioner, Smti. Rumi Goswami has retired from service on 28.02.2022 on superannuation. The money receipts which were allegedly submitted by the accused-petitioner, Smti. Rumi Goswami in connection with disbursal of fund received from Raja Rammohan Ray Foundation have been sent to the Forensic Science Laboratory [FSL], Assam for examination. But the report is awaited.

7. Having regard to the progress made in the investigation so far; and upon consideration of the facts that the accused-petitioner, Smti. Rumi Goswami is presently out of the mischief range having been retired from the post of Director of Library Services, Assam on 28.02.2022 on superannuation and the other accused-petitioner, Sri Pranab Kumar Goswami i.e. her husband being a private person; and that the two accused-petitioners are in custody for 55 days and 35 days respectively since the dates of their respective arrest, this Court is of the considered view that further custodial detention of the accused-petitioners do not appear necessary for the purpose of carrying out further investigation of the case and their release on bail, at this stage of investigation, is unlikely to cause any adverse effect in the further investigation of the case, provided they continue to extend their assistance and co-operation in the further investigation of the case.

8. Accordingly, it is directed that the accused-petitioners shall be released on bail on furnishing a bail bond of Rs. 1,00,000/- each with one local surety each of the like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup [M], Guwahati subject to the conditions that :-

[i] the accused-petitioners shall appear before the Investigating Officer [I.O.] of the case on the 1st day and 15th day of the month for the next 2 [two] months and shall co-operate with the investigation and make themselves available for

interrogation whenever required by the I.O. of the case;

[ii] the accused-petitioners shall not, directly or indirectly, make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade them from disclosing such facts to the court or to any police officer;

[iii] the accused-petitioners shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;

[iv] the accused-petitioners shall maintain law and order and they shall not commit an offence similar to the offence of which they are accused, or of the commission of which they are suspected; and

[v] the accused-petitioners shall regularly remain present during the trial and co-operate the Court to complete the trial for the above offences, if charge sheeted in the case.

9. The bail applications stand disposed of in the aforesaid terms.

JUDGE

Comparing Assistant