

GAHC010213312023



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

Case No. : Bail Appln./3356/2023

SHASANKAR HANDIQUE
SON OF SHRI INDRESWAR HANDIQUE, RESIDENT OF MECHAGAR
(BURAGOHAIN BARI), P.O. MECHAGAR, P.S. NAZIRA IN THE DISTRICT OF
SIVASAGAR, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE LD. PUBLIC PROSECUTOR

Advocate for the Petitioner : MR. P DEKA

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

06.10.2023

Heard Mr. A. Chetia, learned counsel for the accused and also heard Ms. A. Begum, learned Addl. Public Prosecutor for the State respondent.

2. This application, under section 439 Cr.P.C. is preferred by accused - Shasankar

Handique, who has been languishing in jail hazoot since 26.08.2023, in connection with Golaghat P.S. Case No.208 /2023, under Section 120(B)/406/468/419/420/34 IPC, for grant of bail.

3. It is to be noted here that the above noted case has been registered on the basis of one FIR lodged by one Trallukya Das, Area Business Manager, Mahindra Finance, on 07.07.2023.

4. The essence of allegation made in the said FIR is that accused Shasankar Handique, who was serving in Mahindra Finance, along with one dealer sales person, namely, Md. Muktar Hussain, have hatched a conspiracy and processed business loans to borrowers by forging and fabricating documents of the borrowers, co-borrowers and guarantors and got the loans sanctioned, and thereafter, delivered 27 vehicles to borrowers, who have initially paid monthly installments to the company, but, later on, they withhold payment, and thereby, the accused persons cheated the company and caused heavy loss to it.

5. Mr. Chetia, learned counsel for the accused, submits that the accused was arrested by Police on 26.08.2023, and since then he has been languishing in jail hazoot. Mr. Chetia also submits that the accused was serving as Service Manager and in that capacity he had verified the loan documents which were submitted online and as such there was no scope for forging the said documents as alleged in the FIR. Mr. Chetia further submits that the accused is languishing in jail hazoot for last 42 days and that he had appeared before the I.O., before his arrest and co-operated with the investigating agency, and his further custodial detention may not be required in the interest of investigation and therefore, Mr. Chetia contended to allow this petition.

6. Per contra, Mr. A. Begum, learned Addl. P.P. has vehemently opposed the petition. Producing the Case Diary before this court Ms. Begum submits that the I.O. has collected sufficient materials to show complicity of the accused with the offences alleged in the FIR and his further custodial detention is required in the interest of investigation and therefore, Ms. Begum has contended to dismiss this petition.

7. Having heard the submission of learned Advocates for both the sides, I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of Ms. Begum, learned Addl. PP.

8. It appears from the case diary that the I/O had collected sufficient incriminating materials in support of the allegations made in the FIR against the present accused. The case diary also indicates that the accused was working as Service Manager in Mahindra Finance and he admitted his involvement in the offence alleged in the FIR. But, it appears that the allegation, against the present accused, is basically related to forging of documents. And the case diary indicates that the I.O. had achieved significant progress in the investigation and he had collected the relevant documents. Further, it appears that the accused is behind the bar for last 42 days.

9. Having considered aforementioned facts and circumstances, and also having considered the nature and gravity of the offence, as well as the submission of learned Advocates for both the sides, and also the period of detention of the accused (42 days) in jail hazoot, this Court is of the considered opinion that his further custodial detention may not be warranted in the interest of investigation. Therefore, striking a balance between the nature and gravity of the offence, with the period of detention of the accused, this Court is inclined to allow this petition.

10. Accordingly, it is provided that on furnishing a bond of ₹ 50,000/- (Rupees Fifty Thousand) with one surety of like amount, to the satisfaction of the learned Chief Judicial Magistrate, Golaghat, the accused be enlarged on bail.

11. In terms of above, this petition stands disposed of. The case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant