

GAHC010241612023



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

**Case No. : AB/3643/2023**

BIKASH RANJAN DAS  
S/O- LATE JYOTISH CHANDRA DAS, R/O- H NO. 12, KAMAKHYA NAGAR,  
DINESH OJHA PATH, GHY 781005, KAMRUP METRO, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR  
REP. BY THE PP, ASSAM

2:THE ASSAM CO OPERATIVE APEX BANK LIMITED  
REP. BY ITS MANAGING DIRECTOR  
HAVING ITS OFFICE AT PAN BAZAR  
GHY- 781001  
KAMRUP METRO  
ASSA

**Advocate for the Petitioner : MR. P K BHUYAN**

**Advocate for the Respondent : PP, ASSAM**

**BEFORE**  
**HONOURABLE MRS. JUSTICE MALASRI NANDI**

**ORDER**

**Date : 17.11.2023**

Heard Mr. K.N. Choudhury, learned Senior counsel assisted by  
Mr. O.P. Bhati, learned counsel for the petitioner. Also heard Mr. M.

Phukan, learned Public Prosecutor for the State.

2. This is an application made under **Section 438 Cr.P.C.**, seeking pre-arrest bail by the petitioner, namely, **Bikash Ranjan Das**, apprehending arrest in connection with **BI(EO) P.S. Case No. 31/2023**, registered under **Section 120B/420/406/409/119 IPC**.

3. The brief facts of the case is that the Chairman of Assam Co-operative Apex Bank Ltd. lodged an FIR before the Director, Bureau of Investigation (E.O.) Government of Assam, stating *inter alia* that a report of financial fraud was committed in the Dispur Branch of Assam Co-operative Apex Bank Ltd. by M/s North East Plantations & Commercial (P) Ltd. in the period between 05.04.2023 to 30.06.2023 by irregularly discounting 8(eight) numbers of cheques in connivance with certain officials of the said bank thereby fraudulently withdrawing a total amount of Rs.20,30,00,000/- (Rupees Twenty Crores Thirty Lakhs) at the expense of public deposit held with the bank causing acute loss to the bank's exchequer as well as loss of public confidence on security of their deposits held with the bank.

4. It is further stated in the FIR that M/s Northeast Plantations and Commercial Private Limited where the petitioner No.1 Rajesh Bajaj is the director has remained a customer of the said bank since the year 2008. It is alleged that during the period from 05.04.2023 to 30.06.2023, the Director of the said firm with the help of certain officials of the bank fraudulently discounted 8(eight) numbers of cheques, totaling an amount of Rs. 20,30,00,000/- (Rupees Twenty Crores Thirty lakhs) through Dispur Branch of the Apex bank in gross misuse of an obsolete Demand Bill Purchase(DBP) facility, thereby committing a fraud and also cheating

the bank at the expense of public deposits held with the bank. Subsequently, the petitioner No.1 returned an amount of Rs.80,00,000/- (Rupees Eighty Lakhs) only to the bank and has shown no intent to return the remaining amount of Rs.19,50,00,000/- (Rupees Nineteen Crores Fifty Lakhs) to the bank.

5. After the matter came to the notice of the informant, instructions were given to conduct an official level inquiry into the matter and on the basis of the outcome of the inquiry, the concerned branch manager of Dispur Branch Sri Bikash Ranjan Das i.e. the present petitioner was placed under suspension vide suspension order dated 14.09.2023 and maximum efforts are being made to recover the defrauded amount which subsequently resulted in filing an FIR at Dispur police Station.

6. Mr. Choudhury, learned Senior counsel for the petitioner has submitted that on 29.12.2022 the petitioner was working as Branch Manger of Assam Co-operative Apex Bank, Dispur Branch received a letter from the Managing Director of the said bank on behalf of M/s North East Plantations & Commercial (P) Ltd. with an endorsement to advance a sum of Rs.5 crore as DBP. The petitioner being the BM of the said bank initiated a process to advance the said amount after taking appropriate security from the said company. The said company returned the DBP amount with interest in time for which the bank received of huge profit.

7. It is also submitted that again the petitioner after fulfilling the documentary process granted a sum of Rs.15 crore to the said company with the approval of the MD, of the bank. The said company again approached the bank for another sum of Rs.6 crore under DBP scheme

but this time, the MD of the bank did not send the endorsement letter to the petitioner but instructed him oblige the request made by the company. Then the petitioner on good faith granted the said amount to the company as instructed by the MD of the bank. Thereafter, the said company had written a letter to the MD of the bank disclosing his inability to repay the aforesaid amount i.e. Rs.21 crore and assured that he would repay the entire amount within a short while.

8. It is also the submission of learned Senior counsel for the petitioner that the alleged offence entirely based on the documents which are in possession of the informant's bank and no further documentary evidence are required to be collected and in view of that matter, the custodial interrogation of the petitioner is not necessary.

9. In response, Mr. Phukan, learned Public Prosecutor for the State has vehemently objected to the prayer of the petitioner by stating that the petitioner is very much involved in the present case. There is sufficient incriminating materials found in the case diary against the petitioner. He pointed out that the matter involves allegation of financial fraud in the bank. M/s North East Plantations & Commercial (P) Ltd. has committed such financial fraud with the help of the present petitioner. On the prayer of the said company, petitioner disbursed the amount in favor of the company without any visible vouchers so prepared relating to issue/transactions of DBP. And the Branch had not prepared any voucher for the transactions of the said DBPs. The entries have been made found in the system directly. All the entries relating to issue of the said DBPs were found entered and authorized by the Branch Manager.

10. It is also the submission of learned Public Prosecutor that to

facilitate the directors of M/s North East Plantations & Commercial (P) Ltd. and to take undue advantage of getting more than 20 crore as DBP, the petitioner has violated the administrative circular of the bank. Since all those cheques were found undated and were incomplete, so discounting of those cheques are totally illegal.

11. On the last limb of argument, learned Public Prosecutor has submitted that as the petitioner was the Branch Manager of the said bank at the relevant time, his name has come out during investigation and his interrogation might also be required for the interest of the case. The investigation is still going on and at the nascent stage of investigation, the learned Public Prosecutor has opposed in granting bail to the petitioner.

12. In support of his submission, the learned Public Prosecutor for the State has placed reliance on the following case laws-

- (i) Nimmagadda Prasad v. Central Bureau of Investigation reported in (2013) 7 SCC 466.
- (ii) Alagarsamy & Ors. v. State represented by Deputy Superintendent of Police, Madurai, reported in (2010) 12 SCC 427.

13. I have considered the submissions made by the learned counsel for the parties. I have also perused the case diary.

14. On perusal of the case diary, it reveals that the petitioner being the Branch Manager of the said bank played major role for committing the financial fraud as alleged in the FIR. The investigation is not yet completed and it is a serious fraud against the financial institution.

15. For the foregoing reasons, this Court impelled to hold that a clear case of fraud is prima facie made out. Such financial frauds deserve to be properly investigated to unmask the identity of the persons privy thereto, the real beneficiaries of the fraud and if possible, trace the money which has been siphoned off. Custodial interrogation of the petitioner is, therefore, warranted.

16. It is clarified that the observations made aforesaid are confined to determine entitlement of pre-arrest bail only. In an overview of the matter, this Court is of the considered view that the petitioner is not entitled to the concessions of pre-arrest bail. Hence, prayer for pre-arrest bail is **rejected** accordingly.

17. The pre-arrest bail application stands disposed of.

18. Return the case diary.

**JUDGE**

**Comparing Assistant**