

GAHC010251102022



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

Case No. : AB/3642/2022

NARENDRA BORAH
S/O- HEM KANTA BORAH,
R/O- DARIGOJI,
P.S- KALIABOR, DIST- NAGAON, ASSAM

VERSUS

THE STATE OF ASSAM .
REP BY PP, ASSAM

Advocate for the Petitioner : MR S M ABDULLAH P

Advocate for the Respondent : PP, ASSAM

B E F O R E
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

29.03.2023

1. Heard Mr. S.M. Abdullah P., learned counsel for the petitioner and Mr. B.B. Gogoi, learned Additional Public Prosecutor for the respondent State of Assam.
2. By this application under Section 438, Code of Criminal Procedure, 1973[CrPC], the petitioner viz. Narendra Borah has approached this Court seeking the benefit of pre-arrest

bail, apprehending his arrest, in connection with Kaliabor Police Station Case no. 75/2022, registered for offences punishable under Sections 420/406/409/34, Indian Penal Code [IPC].

3. The Director, M/s. Indian Institute of Entrepreneurship [I.I.E.], Guwahati, has lodged the First Information Report [FIR] on 01.12.2022 highlighting the transactions carried out in respect of a joint Escrow Account no. 0038825255837 by the name of M/s. Silk and Handicraft Co-operative Society, Kaliabor, Assam maintained at Kaliabor Branch of the State Bank of India jointly by M/s. Indian Institute of Entrepreneurship [I.I.E.], Guwahati [Nodal Agency] and M/s. Silk and Handicraft Co-operative Society Limited [implementing agency]. As per the mandate, the said Escrow Account is to be operated jointly by M/s. I.I.E., Guwahati as Nodal Agency and the Secretary, M/s. Silk and Handicraft Co-operative Society Limited. The petitioner herein is the Secretary of M/s. Silk and Handicraft Co-operative Society Limited and he is the authorized person to operate the said Escrow Account jointly with M/s. I.I.E., Guwahati. In the FIR, allegation is made to the effect that though the Escrow Account is to be operated jointly through cheques, the Bank authorities of Kaliabor Branch, State Bank of India had allowed transfer of fund through net banking to the petitioner as the Secretary of M/s. Silk and Handicraft Cooperative Society Limited, without any authorization from the co-signatory, M/s. I.I.E., Guwahati. As a result, the petitioner as the Secretary of M/s. Silk and Handicraft Cooperative Society has transferred an amount of 110.73 lakhs to the individual account of M/s. Silk and Handicraft Cooperative Society Limited and other accounts without any authorization from M/s. I.I.E., Guwahati.

4. Thus, from the FIR, it appears that the petitioner is accused of fraudulently diverting a sum of Rs. 1.10 crore from an Escrow Joint Bank account maintained at State Bank of India, Kaliabor Branch, which is to be operated jointly by M/s. Indian Institute of Entrepreneurship [I.I.E.] and M/s. Silk and Handicraft Co-operative Society Limited, where the petitioner is the Secretary.

5. It is the contention of the petitioner that though the Escrow Account was to be operated jointly but during Covid-19 pandemic period, the petitioner approached the State Bank of India, Kaliabor Branch where the Escrow Account is being maintained, to grant him net banking access and the permission to operate the Escrow Account through net banking was formally granted by the Bank. It was after grant of such access, the amounts from the

joint Escrow Account were withdrawn from time to time and a part of it was transferred to another account maintained in the same bank and Branch in the name of M/s. Silk and Handicraft Cooperative Society Limited, Kaliabor and other accounts.

6. It is submitted at the Bar that the net banking access to operate the Escrow Account through net banking was permitted by the bank authorities. The petitioner has also submitted some documents in relation to the withdrawal. It is submitted that the petitioner has co-operated with the investigation and he has appeared before the I/O and he also submitted the requisite documents and his statement also been recorded.

7. In view of my foregoing discussions, the order dated 09.01.2023 is hereby made absolute.

8. Send back the case diary.

JUDGE

Comparing Assistant