

GAHC010258482022



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

Case No. : Bail Appln./3477/2022

PRADIP KUMAR DAS
S/O LATE MAHENDRA NATH DAS
R/O MANCOTTA ROAD, MILAN NAGAR IN FRONT OF GOVERNMENT ACS
SCHOOL, P.O. DIBRUGARH, P.S. DIBRUGARH, DIST. DIBRUGARH, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR A CHALIHA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

09.01.2023

Heard Mr. B. Gogoi, learned counsel for the accused-petitioner and Mr. M.P. Goswami, learned Additional Public Prosecutor for the respondent State of Assam.

2. By the application under Section 439, Code of Criminal Procedure, 1973 [CrPC], the accused-petitioner viz. Sri Pradip Kumar Das has prayed for his release on bail in connection with

B.I.[EO] Police Station Case no. 09/2021, registered under Sections 120B/420/406/409/468/471, Indian Penal Code [IPC].

3. The First Information Report [FIR] is lodged by the Regional Manager, Central Bank of India, Regional Office, Jorhat on 23.06.2021 in respect of alleged fraud committed in respect of processing of a term loan proposal submitted by an applicant named Abdul Munnaaf at Thana Chariali Branch of Central Bank of India. As per the FIR, the applicant, Abdul Munnaaf, son of Late Abdus Samad, applied for a term loan of Rs. 3,30,000/- under the Cent Mortgage Scheme of the Central Bank of India at Thana Chariali Branch. The applicant, Abdul Munnaaf had submitted documents in relation to a plot of land measuring 1 Katha, covered by Dag no. 134 and Periodic Patta no. 26, located at Tekela Chiring Gaon, Mouza – Dibrugarh Town [the subject-plot] for creation of equitable mortgage against the loan applied by him on 03.12.2013. On the basis of the documents submitted in respect of the subject-plot, equitable mortgage was created and thereafter, a term loan for an amount of Rs. 3,30,000/- was sanctioned on 15.04.2008 from Thana Chariali Branch and the said amount was disbursed to Account no. 2083573323. The equitable mortgage was created by deposit of a Sale Deed no. 2702 dated 31.08.1989 which stood in the name of Abdul Munnaaf and the Patta issued in respect of the subject-plot. When the loan account became Non-Performing Asset [NPA], the process for recovery was initiated by the Bank authorities. During the course of investigation carried out for recovery, it came to the knowledge of the Bank authorities that against the same subject-plot, loan amounts were sanctioned twice by two Branch offices – Tekela Chiring and Dikom - of the Central Bank of India.

4. During the investigation, it has emerged that the Patta no. 26 submitted by the loan applicant for creation of equitable mortgage against the loan was not genuine. It has further emerged that the documents submitted for obtaining the loan including PAN card of Abdul Munnaaf, were fabricated by the applicant in order to establish the credentials of Abdul Munnaaf. It has also emerged that Abdul Munnaaf expired long back on 22.06.2006 but Abdul Samir i.e. the son of Abdul Munnaaf impersonated Abdul Munnaaf for the purpose of obtaining the term loan fraudulently. The loan sanctioned from Thana Chariali Branch was earlier to the loan sanctioned from Dikom Branch of the Central Bank of India.

5. Mr. Goswami, learned Additional Public Prosecutor has submitted, on the basis of the materials in the case diary, that there are two other crime cases registered against the accused-

petitioner in his capacity as a Branch Manager, Central Bank of India for commission of irregularities in sanctioning two other loans. In those cases also, the allegations against the accused-petitioner are in respect of sanctioning loan proposals without following due norms, as in the case in hand. The accused-petitioner was Branch Manager, Thana Chariali Branch, Central Bank of India during the period from 2008 to 2010. It was during his period as Branch Manager, Central Bank of India, the accused-petitioner sanctioned the loan in question on 15.04.2008.

6. The accused-petitioner was arrested and produced before the Court of learned Chief Judicial Magistrate, Kamrup [M], Guwahati on 05.12.2022 and on being so produced, the accused-petitioner was remanded to custody.

7. The allegations against the accused-petitioner are *inter alia* to the effect that at the time of processing and sanctioning of the loan in the name of Abdul Munnaaf, he was serving as Branch Manager of the concerned Thana Chariali Branch, Central Bank of India and he without properly following the norms and without verifying the documents pertaining to the subject-plot submitted by the applicant for the loan including the living status of the so called applicant, Abdul Munnaaf who expired on 22.06.2006, sanctioned the loan in the name of Abdul Munnaaf as an applicant who impersonated an already dead person [Abdul Munnaaf] and the loan account, later on, turned NPA due to non-payment of installments. The further allegation is to the effect that due to not scrutinizing the documents pertaining to the subject-plot and not ascertaining the living status of the so called applicant, Abdul Munnaaf, submitted by the other accused person impersonating Abdul Munnaaf at the time of sanctioning of the loan, the loan account had turned as NPA and the Bank has to suffer substantial loss due to borrowal fraud.

8. The prayer for bail has, thus, been objected by the learned additional public prosecutor with the contention that the accused-petitioner did not pay any visit to the subject-plot at the time of processing and sanctioning of the loan and also to the main accused persons and did not properly verify the documents pertaining to the subject-land submitted seeking disposal of the loan. In view of the above lack of diligence, an inference can be clearly drawn that there was receipt of gratification by the accused-petitioner.

9. I have perused the materials available in the case diary, collected during the course of investigation carried out so far. The Investigating Officer of the case has already seized the documents pertaining to the loan account disbursed in favour of Abdul Munnaaf. Most of the documents on the basis of which the Central Bank of India has brought the allegations in respect

of the borrowal fraud are in custody of the Central Bank of India itself. During the period of custody since 05.12.2022, the accused- petitioner has been thoroughly interrogated. The accused-petitioner has already retired from service of Central Bank of India on superannuation in 2020. As the accused-petitioner is out of service of Central Bank of India since 2020, he is apparently out of the mischief's range to tamper with the documentary evidence of the case, which is primarily based on documentary evidence.

10. Having regard to all the above aspects, I am of the considered view that custodial detention of the accused-petitioner for any further period for the purpose of carrying out further investigation appears not necessary and if the accused-petitioner is released on bail, at this stage of investigation, further investigation of the case is not likely to be prejudicially affected, provided the accused-petitioner continues to extend his assistance and cooperation in the further investigation of the case.

11. Accordingly, the accused-petitioner is allowed to be enlarged on bail on furnishing a bail bond of Rs. 50,000/- with two sureties of the like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup [M], Guwahati, subject to the following conditions :-

[1] The accused-petitioner shall appear before the Investigating officer [I.O.] of the case on 01.02.2023 and 01.03.2023 and shall thereafter, make himself available as and when his presence is required by the I.O. in the investigation of the case;

[2] The accused-petitioner 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 him from disclosing such facts to the court or to any police officer;

[3] The accused-petitioner 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.

[4] the accused-petitioner shall not leave the territorial jurisdiction of the aforesaid police station, without prior written permission from its officer in charge;

[5] the accused-petitioner shall maintain law and order and he shall not commit an offence similar to the offence of which he is accused, or of the commission of which he is suspected; and

[6] the accused-petitioner shall regularly remain present during the trial and cooperate the Court to complete the trial for the above offences, if charge sheeted in the case.

12. The bail application stands disposed of in the aforesaid terms.

JUDGE

Comparing Assistant