

GAHC010259932022



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

Case No. : Bail Appln./3539/2022

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. B GOGOI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 06-01-2023

Heard Mr. B. Gogoi, learned counsel for the accused-petitioner and Mr. B. Sarma, 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. 03/2019, registered under Sections 120B/420/468/471/406/409, Indian Penal Code [IPC].

3. The First Information Report [FIR] is lodged by the Regional Manager, Central Bank of India, Regional Office, Guwahati on 24.01.2018 in respect of alleged fraud committed in respect of processing of a loan proposal dated 24.12.2013 for a term loan of ₹ 23,75,000/- in favour of the two applicants – borrowers – Sri Biswajit Debnath and Sri Novomoni Chakraborty – from Ulubari Branch, District – Kamrup [M] of the Central Bank of India and subsequent sanctioning of the term loan vide Loan Account no. 2980970397. As per the FIR, Sri Biswajit Debnath and Sri Novomoni Chakraborty approached Ulubari Branch of the Central Bank of India on 24.12.2013 to avail credit facility. One Sri Mahendra Nath Mazumder stood as a guarantor to secure the said credit facility and gave his personal guarantee. After processing of the loan proposal, the term loan for the amount of ₹ 23,75,000/- was sanctioned on 30.12.2013. In order to secure the loan, equitable mortgage was created by depositing land documents related to a plot of land measuring approximately 3 bighas 5 lessas [03-B/05-L], covered by Dag no. 166[O]/274 [N] and Patta no. 904, located at Village Saukuchi, Mouza – Beltola, Kamrup, Assam [the subject-plot]. The loan was sanctioned after receipt of a valuation report from the Bank's panel valuer, Sri Mrigen Chandra Bharali. Subsequently, the loan account was classified as NPA on 30.05.2017. When recovery measures were initiated by the Central Bank of India authorities, several irregularities were found to have been committed in the processing and sanctioning of the loan. Panel valuers were engaged but they failed to identify the subject-plot, which was mortgaged. During investigation carried out by the Central Bank of India authorities, it has emerged that the loan was secured by deposit of a registered power of attorney dated 16.07.2011 by Sri Mahendra Nath Mazumder whereas the subject-land belonged to one Sri Mrigen Chandra Bharali. In terms of the registered power of attorney dated 16.07.2011 given by Sri Mrigen Chandra Bharali, the attorney holder, Sri Mahendra Nath Mazumder was not authorized to mortgage the subject-plot as security for any loan to 3rd person.

4. The accused-petitioner was Branch Manager of Ulubari Branch of the Central Bank of India and the sanctioning authority for the loan as he was serving as the Branch Manager, Ulubari Branch, Central Bank of India during the period from 2013 to 2014.

5. The accused-petitioner was arrested on 05.12.2022 in connection with B.I.[EO] Police Station Case no. 09/2021 registered for the offences under Sections 120B/420/406/409/468/471, IPC. The accused-petitioner is shown arrested in connection with B.I.[EO] Police Station Case no. 03/2019 on 16.12.2022.

6. The allegations against the accused-petitioner are *inter alia* to the effect that at the time of processing and sanctioning of the loan to Sri Biswajit Debnath and Sri Novomoni Chakraborty wherein Sri Mahendra Nath Mazumder stood as a guarantor by virtue of the power of attorney, he was serving as the Branch Manager of the concerned Ulubari Branch of Central Bank of India and he without properly following the norms and without verifying the documents pertaining to the subject-land submitted by the applicants for the loan, sanctioned the loan, which, later on, turned as NPA due to non-payment of installments. The further allegation is to the effect that due to not verifying the documents pertaining to the subject-land, submitted by the accused persons, named in the FIR, at the time of the sanctioning of the loan properly, the mortgaged subject-land could not be located. Further, the borrowers also could not be traced out when investigation was carried out by the Central Bank of India authorities after the loan account became NPA.

7. The prayer for bail has been objected by the learned additional public prosecutor with the contention that the accused-petitioner did not pay any visit at the time of processing and sanctioning of the loan 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 of the accused-petitioner.

8. 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 Sri Biswajit Debnath and Sri Novomoni Chakraborty. 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 16.12.2022, 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.

9. 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.

10. 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 [M], 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.

11. This application stands disposed of in the afore-mentioned terms.

JUDGE

Comparing Assistant