

GAHC010265482023



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

**Case No. : Bail Appln./4311/2023**

NILAKSHI DAS  
W/O- CHINMOY CHOUDHURY, R/O- HOUSE NO.45, M.C. ROAD,  
UZANBAZAR, P.S. LATASIL, DIST. KAMRUP(M), ASSAM

VERSUS

THE STATE OF ASSAM  
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

**Advocate for the Petitioner : MR. C K NATH**

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

**BEFORE**  
**HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

**ORDER**

**19.12.2023**

Heard Mr. S. Munir, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor, Assam as well as Mr. S.N. Tamuli, learned counsel for the informant.

This application under section 439 of the Code of Criminal Procedure,

1973 has been filed by the petitioner, namely, Nilakshi Das, who has been detained behind the bars since 20.11.2023 (for last 29 days) in connection with Jalukbari P.S. Case No. 635/2023 under Sections 417/420/406 of the Indian Penal Code.

The gist of accusation against the present petitioner is that on 28.10.2023, one Pranjal Mazumdar, who is the General Manager (Finance) of Amar Shakti Commerce and Industries Limited has lodged an FIR before the Officer-In-Charge of Jalukbari Police Station, *inter-alia*, alleging that the present petitioner approached the company of the first informant and introduced herself as a key official of an NGO working for the cause of the economic upliftment of the poor and needy people in Guwahati and adjoining areas. She had requested to provide financial assistance to some of the poor people selected by her NGO and relying on the assurance of the petitioner the informant's company provided loan to 20 customers. However, after disbursement of the loan, some of the loanees approached the first informant's company and complained that the petitioner took the e-rickshaws herself and did not hand over the same to the beneficiaries and they were also informed by the petitioner that she would herself repay the entire loan.

It is alleged in the FIR that the petitioner thereafter approached the company of the first informant and assured that she will repay the loan amount as per agreement and that her she is ready to stand as co-borrower of the loan which has already been advanced to the beneficiaries and she also assured that she will not repeat such a mistake. However, even after that, two other customers were brought by the petitioner to the company of the informant who also took loan in the similar manner and thereafter, it is alleged that the petitioner has sold several hypothecated vehicles without any information to the

company and therefore forgery has been alleged against the present petitioner.

Learned counsel for the petitioner has submitted that the informant's company dealing in the commerce and finance sector ought to have verified the credentials of the loanees to whom the loans were disbursed and that the petitioner has herself taken loan in respect of only one e-rickshaw in respect of which she is paying the instalments.

It is submitted that as regards other loanees, she only introduced the beneficiaries to the financial company, she neither stood as co-borrower nor took any guarantee for repayment of loan by them.

On the other hand, Mr. S.N. Tamuli, learned counsel for the informant submits that several borrowers have approached the informant's company with grievance against the present petitioner that the beneficiaries were given an assurance by the present petitioner that she would obtain financial assistance for procuring e-rickshaws under some scheme of the government. However, it was alleged that the battery operated e-rickshaws were not provided to them.

Learned counsel for the petitioner submits that the petitioner is also a mother of two year old child who has had to remain separated from her mother due to the detention of the present petitioner.

On the other hand, learned Additional Public Prosecutor has produced the case diary of Jalukbari P.S. Case No. 635/2023 and has submitted that the Investigating Officer has in the meanwhile recorded the statement of several witnesses including the beneficiaries under Section 161 of the Code of Criminal Procedure, 1973.

It is also submitted that the statement of the present petitioner has also been recorded under Section 161 of the Code of Criminal Procedure, 1973, wherein, she has stated before the Investigating Officer that she is not aware as

to whether the company has delivered the e-rickshaws to the beneficiaries or not after the loan was provided for the same.

Learned Additional Public Prosecutor has submitted that the e-rickshaws in question regarding which the loan has been provided, whereabouts of the some of the e-rickshaws were not yet known and it is also submitted by learned Additional Public Prosecutor that it appears from the case diary that the status of the e-rickshaws which were to be delivered to the beneficiaries has not yet been investigated by the Investigating Officer.

Now, considering the submissions made by learned counsel for both the sides as well as considering the progress made in the investigation and considering the fact that the petitioner has been detained behind the bars for last 21 days and she has a two year old girl child to look after, this Court is of the considered opinion that further custodial detention of the petitioner may not be necessary if she otherwise co-operates with the Investigating Officer.

Hence, the above named petitioner is hereby allowed to go on bail of Rs. 30,000/- with a suitable surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup(M) at Guwahati, with following conditions that:-

(i) the petitioner shall appear before the Investigating Officer once every week for the next two weeks or till the investigation is completed whichever is earlier; and

(ii) the petitioner shall not directly or indirectly make any inducement, threat or promise to the victim or to any person who may be acquainted with the facts of the case so as to dissuade such person to disclose such facts before the Investigating Officer or before the Court;

With the above observations, this bail application is hereby disposed of.

Send back the case diary.

**JUDGE**

**Comparing Assistant**