

GAHC010258482022



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

Case No. : Bail Appln./3681/2022

PRADIP KUMAR DAS
S/O- LATE MAHENDRA NATH DAS

R/O- MANCOTTA ROAD
MILAN NAGAR IN FRONT OF GOVERNMENT ACS SCHOOL

P.O
P.S AND DIST- DIBRUGARH
ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY PP
ASSAM

Advocate for : MR A CHALIHA
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 05.01.2023

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 this application under Section 439, Code of Criminal Procedure, 1973, the accused-petitioner viz. Sri Pradip Kumar Das has prayed for his release on bail in connection with B.I.[E.O.] Police Station Case no. 05/2018, registered for offences under Sections 120B/419/406/468, Indian Penal Code [IPC].

3. The First Information Report [FIR] is lodged by the Regional Manager, Central Bank of India, Regional Office, Jorhat on 06.04.2018 in respect of alleged fraud committed in respect of processing of proposal dated 25.08.2010 for a term loan in favour of one Ms. Rubi Konwar Begum, proprietor, M/s Saina Beauty Parlour and Training Centre at Dibrugarh from Thana Chariali Branch, District – Dibrugarh of the Central Bank of India and subsequently sanctioning of the term loan. As per the FIR, Ms. Rubi Konwar Begum submitted a proposal dated 25.08.2010 for a term loan at the Thana Chariali Branch, Central Bank of India purportedly for the purpose of running the business of M/s Saina Beauty Parlour and Training Centre at Dibrugarh. The then Branch Manager i.e. the accused-petitioner had sanctioned the term loan for an amount of Rs. 8,00,000/- in favour of Ms. Rubi Konwar Begum on 04.10.2010 after examining the validity of the proposal. At the time of submitting the proposal, the borrower had submitted primary security of hypothecation of movable assets. The loan amount/account was secured against collateral security of land measuring 2 Bighas out of the total land measuring 33 Bigha and 17 Lessas, covered by Dag no. 70 & 71 and periodic patta no. 47, located at Dhekeri Gaon, Mouza – Mancotta Kherikar, District – Dibrugarh, Assam [‘the subject-land’, for short] by creating its mortgage in favour of the Bank. At the time of such mortgage of the subject-land, the guarantors/mortgagors were shown as [i] Md.

Mohamudul Hussain, [ii] Mohibul Hussain, [iii] Md. Riazul Hussain, and [iv] Md. Merajul Hussain, all of whom were sons of Late Nazmul Hussain. At a later point of time, it came to the knowledge of the Bank that Mohamudul Hussain expired on 21.08.1998; Mohibul Hussain expired on 04.02.1989 and Md. Riazul Hussain expired on 08.02.1997, meaning thereby, at the time of creation of mortgage, three of the guarantors/mortgagors were already dead. Only one of the guarantors/mortgagors i.e. Md. Merajul Hussain was alive at the time of creation of the mortgage. One Ms. Farzana Hussain, daughter of Late Md. Mohamudul Hussain had lodged a case in this connection which was registered as FIR no. 229 dated 21.03.2015 with the Dibrugarh Police Station. Subsequently, the loan account of Ms. Rubi Konwar Begum was declared as a borrowal fraud on 15.03.2018. According to the Central Bank of India, Ms. Rubi Konwar Begum conspired with some unknown persons creating forged identity of the four guarantors/mortgagors and as a result of the act of cheating, fraud, etc. the Bank suffered wrongful loss to the extent of Rs. 23,54,337/- as on 06.04.2018.

4. The accused-petitioner was Branch Manager of Thana Chariali Branch during the period from 2008 to 2010. The accused-petitioner was arrested on 05.12.2022 in connection with B.I.[E.O.] Police Station Case no. 09/2021 registered for offences under Sections 120B/420/406/409/468/471, IPC. The accused-petitioner has been shown arrested in connection with B.I. [E.O.] Police Station Case no. 05/2018 on 16.12.2022.

5. The allegations against the accused-petitioner are *inter alia* to the effect that at the time of sanction of the loan to Ms. Rubi Konwar Begum, he was serving as the Branch Manager of the concerned Thana Chariali Branch of the Central Bank of India and he without properly following the norms and without verifying the document pertaining to the subject-land submitted by the

loanee, sanctioned the loan to the loanee 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 person i.e. Ms. Rubi Konwar Begum at the time of sanctioning of the loan properly, the mortgaged property could not be traced out when the loan account became NPA during the investigation carried out by the bank.

6. The prayer for bail has been objected by the learned Additional Public Prosecutor by filing a written objection with the contention that the accused-petitioner did not pay any visit at the time of processing and sanctioning the loan to the main accused, Ms. Rubi Konwar Begum and did not properly verify the documents pertaining to the subject-land submitted seeking disbursement of the loan. In view of the above actions, an inference can be clearly drawn that there was receipt of gratification by the accused-petitioner.

7. 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 Ms. Rubi Konwar Begum. 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.

8. Having regard to 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.

9. 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 co-operate the Court to complete the trial for the above offences, if charge sheeted in the case.

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

JUDGE

Comparing Assistant