

GAHC010062482024



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

Case No. : Bail Appln./882/2024

HEMANTA KUMAR DAS
S/O LATE BIDYA DHAR DAS
R/O VILL-MAJIRGAON,
NEAR MAJIRGAON- AGCHIYA CHOWK, P.S. AZARA, P.O. DHARAPUR
DIST. KAMRUP (M), ASSAM, PIN-781017
MOBILE NO. 98640-48314

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. B D KONWAR SR. ADV.

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI
O R D E R

28.03.2024

1. Heard Mr. B.D. Konwar, learned senior counsel for the petitioner assisted

by Ms. P. Gupta. Also heard Mr. R.J. Baruah, learned Addl. P.P. for the State respondent.

2. This is an application filed under Section 439 Cr.P.C. praying for granting regular bail to the petitioner, namely, **Hemanta Kumar Das**, who was arrested on 26.02.2024 in connection with **Azara P.S. Case No. 40/2024**, registered under Sections **406/420/422/423/386 IPC** read with Section 7-C (2) of the Assam Money Lenders Amendment Act, 1968.

3. The case of the prosecution in brief is that the accused/petitioner is involved in the illegal act of money lending at higher interest rates without any valid permission of the concerned authorities. It is the further allegation of the prosecution that the accused/petitioner keeps the ATM cards, bank passbooks, jewellerys, land documents, written agreements, etc as mortgage surety from the borrowers to ensure repayment and when the borrowers are unable to repay the said tax, it is alleged that the accused/petitioner threatens the borrowers with dire consequences for which the borrowers are forced to pay the high interest rates.

4. Mr. B.D. Konwar, learned senior counsel for the petitioner submits that as per Section 7(C) (2) of the Assam Money Lenders Amendment Act, 1968, the imprisonment shall be maximum three months and fines which may extend to Rs. 500/- or both and is a bailable offence. He further submits that there are no ingredients as regards the other sections i.e. **406 /420/422/423/386 IPC**.

5. Mr. R.J. Baruah, learned Addl. P.P. for the State respondents on the other hand strongly opposes the prayer for bail. He submits that there are materials collected by the Investigating Officer during investigation which shows that the I.O has seized several items including bank cheques, various blank signed

papers, passbooks, calculation books, land documents, cash of Rs. 7,900/-, money receipts and golden piece of metal etc from the possession of the petitioner. He further submits that during interrogation, the petitioner admitted his guilt regarding lending money. He further submits that the statements of other witnesses have also been recorded under Section 161 Cr.P.C. which indicates that the petitioner is regularly lending money.

6. I heard the submission made at the Bar and I have perused the materials available on record.

7. It appears that the investigation has substantially progressed. It further appears from the materials available on the case diary that the statement of the witnesses has been recorded and the petitioner has also been interrogated. It further appears that the petitioner has been languishing in the jail since last 32 days. It further appears that there are no materials as regards deception and inducement available on record against the petitioner.

8. Considering the facts and circumstances of the case, this Court is of the considered view that further detention of the petitioner may not be justified for the ongoing investigation.

9. Accordingly, it is provided that the petitioner, named above, shall be released on bail in connection with the above noted case on furnishing bail bond of **Rs.30,000/- (Rupees Thirty Thousand) only** with one surety of like amount to the satisfaction of the learned **CJM, Kamrup (M), at Guwahati.**

10. The bail granted to the petitioner shall be subject to the following conditions-

- i) The petitioner shall co-operate with the investigation,

ii) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of this case so as to dissuade such person from disclosing such facts to the Court or to any Police Officer; and

iii) The petitioner shall refrain from such activities with which he is alleged, failing which, bail orders shall stand cancelled.

11. With the above observation, this bail application stands allowed.

12. This disposes of the bail application.

Send back the case diary.

JUDGE

Comparing Assistant