

GAHC010111102024



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

Case No. : AB/1446/2024

SMT BOSHIKA NEGI
D/O KAVI RAJ NEGI, P/R/O G 4/65, RACE COURSE, NEAR POLICE LINES,
P.O.-ARAGHAR, P.S.-ARAGHAR, DIST- DEHRADUN, UTTARAKHAND, P/R/A
P.G. WOMENS HOSTEL, DELHI UNIVERSITY

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR S BORTHAKUR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 14-06-2024

Heard Mr. S. Borthakur, learned counsel for the petitioner Smt. Boshika Negi, who has filed this application under Section 438 of the Code of Criminal Procedure, 1973 with a prayer for pre-arrest bail as she is apprehending arrest in connection with Tinsukia Police Station Case No. 140/2024 registered under

Sections 120B/409/420/468/471 of the Indian Penal Code, 1860.

2. Also heard Mr. B.B. Gogoi, learned Additional Public Prosecutor, Assam for the State respondent.

3. The FIR unfolds that a personal loan amounting to Rs.10,45,000/- (Rupees Ten Lacs Forty Five Thousand) was sanctioned in favour of Smt. Nonthai Mossang on 12.07.2023. It is inter-alia alleged that the Consolidated Consumer Credit Report was fraudulently verified by the petitioner in connivance with the Field Officer Sri Satyendra Kumar Pathak and thereafter, the loan was fraudulently sanctioned to Smt. Nonthai Mossang. It is also alleged that Sri Satyendra Kumar Pathak and the present petitioner manipulated the original documents and erased some relevant data with *malafide* to sanction higher loan amount to the aforementioned borrower despite having knowledge that the borrower was not eligible for higher loan. In this manner a personal loan was fraudulently obtained by the borrower.

4. The learned counsel for the petitioner has drawn the attention of this Court to the allegation that the loan was processed by Sri Satyendra Kumar Pathak who was the Field Officer and then, the present petitioner is alleged to have sanctioned the loan. It is submitted that the sanctioning authority relies upon the report of the Field Officer and the present petitioner was innocent. There was no *malafide* to deceitfully sanction a personal loan of higher amount to the borrower.

5. Annexure-D is submitted in support of the petition stating that pre-sanction appraisal, assessment and recommendation requires that the official who scrutinizes the proposal/credit report and recommends to the Sanctioning Authority, shall ensure that the strengths and weaknesses of the proposal have

been brought out clearly and ensure the proposal to be put up to the Sanctioning Authority as per laid down Rules/Regulations/Loan Policy of the bank.

6. Further is submitted that the loan was sanctioned on 12.07.2023 and the FIR was lodged on 07.05.2024, leaving enough scope for exaggeration. Prior to this FIR, the petitioner herself lodged an FIR with the police at Hijuguri Outpost with allegation of fraudulent practices in the month of August, 2023 by Mr. Sidharat Saikia and 31 others, who have claimed to be bonafide employees of various Government Departments including the APDCL and India Post. They have produced fake salary slips and created their respective accounts by salary for a month and obtained personal loans cumulatively to the tune of Rs.4,00,00,000/- (Rupees Four Crore).

7. I have scrutinized the Case Diary. Indeed there are incriminating materials in the Case Diary against the petitioner. I have considered the submission that Nonthai Mossang, who has fraudulently procured the loan, is already on interim bail. I have also considered the submission that as the petitioner is transferred from Hijuguri Branch, investigation may not be adversely affected.

8. The conduct of the petitioner and the role attributed to her cannot be considered at this juncture as investigation is still under progress.

9. I have also considered the submission that this case is based on documentary evidence. I have also considered the submission that the petitioner is willing to cooperate with the investigation and abide by any stringent conditions if imposed upon her.

10. Considering all aspects and in view of my foregoing discussions, petition is allowed.

11. In the event of her arrest, the petitioner shall be enlarged on furnishing a bail bond of Rs.50,000/- (Rupees Fifty Thousand) to the satisfaction of the arresting authority under the conditions that:

- (i) The petitioner shall not manipulate or interpolate evidence.
- (ii) The petitioner shall appear before the Investigating Officer within 1 (One) week and cooperate with the investigation.
- (iii) The petitioner shall refrain from such activities with which she is alleged.
- (iv) The petitioner shall not leave the jurisdiction of the Court without prior permission.
- (v) The petitioner shall appear before the Investigating Officer on every fortnight till completion of investigation.

12. On breach of any of the bail conditions, bail order shall stand cancelled.

13. In the above terms, this Anticipatory Bail application stands disposed of.

14. Send back the Case Diary.

JUDGE

Comparing Assistant