

GAHC010139092024



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

**Case No. : Bail Appln./2043/2024**

AJOY KR VISWAKARMA  
S/O LATE KUMAR VISWAKARMA, R/O BIRKUCHI, KARBIDEHAL PATH,  
KRISHNA NAGAR, NARENGI, P.S.-NOONMATI, KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM  
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

**Advocate for the Petitioner** : MR. B M CHOUDHURY, MR. S SHARMA

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

**BEFORE**  
**HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND**  
**ORDER**

**30.07.2024**

Heard Mr B M Choudhury, learned counsel for the petitioner, Ajoy Kr Viswakarma.

Also heard Mr R R Kaushik, learned Additional Public Prosecutor for the State of Assam and Mr A M Bora, learned Senior Counsel appearing on behalf of the informant.

2. This application has been filed by the petitioner under Section 483 of the BNSS, 2023 with prayer for bail as he is behind bars since 29.05.2024 in connection with Dispur PS Case No. 517/2024, under Sections 120-B/403/420/406/409/477-A of the

Indian Penal Code, 1860.

3. It is submitted on behalf of the petitioner that although he was in custody for 63 days, the investigating team has not interrogated him in jail, making palpably clear that his custodial interrogation or custodial detention is no more necessary.

4. It is further submitted that the investigating team has scrutinized his bank accounts after his arrest. There is no scope that the investigation may be adversely affected if the petitioner is admitted to bail. He was in service of the company for 13 years. The company has changed hands and was taken over by Hitachi, but the petitioner was in service of the said company for 13 years. Immediately after the FIR was lodged, the petitioner was placed under suspension on 23.05.2024. Internal Audit was held between 24/05/2024 up to 29.05.2024. On 29.05.2024, the petitioner was called to the Police Station and he was arrested. The petitioner is willing to abide by any stringent bail conditions, if he is admitted to bail.

5. It is submitted that when the petitioner was called to the Police Station, he immediately went to the Police Station and then he was forwarded to custody. This clearly reveals that the petitioner will not evade the investigation.

6. On the contrary, the learned Additional Public Prosecutor, Mr R R Kaushik has raised serious objection stating that there are incriminating materials in the Case Diary, against the petitioner. He was requested on several occasions to detect the overage resulting as a result of the conduct of the custodians employed by Hitachi and controlled

by the petitioner. The other accused named in the FIR were consistently in touch with the petitioner. The petitioner is deeply involved. The petitioner has been working in tandem with the custodians.

7. It is alleged by the informant that the Hitachi Cash Management Services Private Limited (HCMSPL, in short) is a cash replenishment agency for cash replenishment to the Bank ATMs. The accused named in the FIR were the custodians whose duty was to replenish the funds in the ATMs, but in a tacit and subterfuged manner, all the accused led by the petitioner, had misappropriated Rs. 1,94,98,200/- from the ATM, depriving several customers. This overage was detected and after audit, it has emerged that the amount misappropriated by the accused may exceed to more than Rs. 4 crores.

8. The learned Senior Counsel for the informant has submitted that the petitioner is the authority who has allotted the funds to the custodians. Several banks have reported to the petitioner regarding the anomalies of the funds. The beneficiaries and customers were deprived from their own savings. However, as the petitioner in collusion with his co-accused has siphoned off the hard-earned money of innocent people. He has paid no heed and ignored to detect the anomalies despite the fact that the overage of crores of rupees have been reported to the petitioner.

9. In reply to the submissions of the learned Senior Counsel for the informant, the learned counsel for the petitioner has submitted that he has received instructions that the petitioner had earlier informed the company about the overage of funds.

10. I have considered the submissions at the Bar with circumspection.
11. The petitioner is behind bars since 29.05.2024.
12. The Case Diary reveals that investigation has also progressed to a considerable extent. The relevant documents have been seized in connection with this case. There appears to be no apprehension of interpolation of documents, including digital documents.
13. It appears that investigation may not be adversely affected if the petitioner is admitted to bail.
14. Considering all aspects and in view of my foregoing discussions, petition is allowed. The petitioner is enlarged on bail of Rs 50,000/- (Rupees Fifty thousand), with two local sureties of like amount to the satisfaction of the learned CJM, Kamrup (Metro), Guwahati under the conditions that:
  - (i) the petitioner shall refrain from such activities with which he is alleged,
  - (ii) the petitioner shall not interpolate or tamper with the evidence,
  - (iii) the petitioner shall appear before the IO on every fortnight, till completion of investigation, and
  - (iv) the petitioner shall not leave the jurisdiction of the Court without prior permission.

On breach of any of the bail conditions, bail order shall automatically stand

cancelled.

15. Bail Application stands disposed of.

16. Send back the Case Diary.

**JUDGE**

**Comparing Assistant**