

GAHC010142152024



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

Case No. : Bail Appln./2063/2024

SARMILA BASAK
W/O- SUMAN BASAK,
R/O- COLONY BAZAR,
KAHILIPARA,
P.S- FATASIL AMBARI, GUWAHATI, DISTRICT- KAMRUP(M), ASSAM.

VERSUS

THE STATE OF ASSAM
REP BY THE PP ASSAM

Advocate for the Petitioner : NIMISH MAHAJAN, MR. P K DAS, MR. A CHAUDHURY, MR. D BORA

Advocate for the Respondent : PP, ASSAM,

BEFORE
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND
ORDER

31.07.2024

Heard Mr N Mahajan, learned counsel for the petitioner, Sarmila Basak, who has filed this application under Section 483 of the BNSS, 2023, with prayer for bail as she is behind bars since 25.06.2024, in connection with Dispur PS Case No. 580/2024, under Sections 420/406 of the Indian Penal Code, 1860.

2. Heard Mr B B Gogoi, learned Additional Public Prosecutor for the State of Assam.
3. The allegation against the petitioner is that the petitioner cheated Smt Anima Sen and had fraudulently withdrawn a huge amount of money from Smt Anima Sen's account. The petitioner was the victim Anima Sen's Yoga Teacher and her monthly remuneration was Rs. 6,000/-, but the petitioner fraudulently inserted inflated amount of money in the blank cheques issued to her by Smt Anima Sen and siphoned off a huge amount of money from the SBI Account, Binovanagar Branch, Kalapahar, Guwahati, being A/c No. 10451953513.
4. The learned Additional Public Prosecutor has submitted that there are incriminating materials in the Case Diary against the petitioner. It is submitted that more than Rs. 5 lacs was withdrawn by the petitioner.
5. I have also scrutinized the Case Diary. Indeed there are incriminating materials against the petitioner. However, I have considered the submission on behalf of the petitioner that the petitioner is a 47 year old middle-aged woman.
6. It is also submitted on behalf of the petitioner that no notice under Section 41-A CrPC was issued against her and she was thus forwarded to custody in an illegal manner.
7. The IO has not followed the guidelines laid down in *Arnesh Kumar –Vs- State of Bihar*; reported in (2014) 8 SCC 273.
8. I have also considered the submission that the petitioner is willing to cooperate with the investigation and to abide by any stringent bail conditions, if imposed upon her.

9. Considering all aspects and in view of my foregoing discussions, petition is allowed. The petitioner is enlarged on bail of Rs 30,000/- (Rupees thirty thousand), with two local sureties of like amount to the satisfaction of the learned CJM, Kamrup (Metro) under the conditions that:

- (i) the petitioner shall refrain from such activities with which she is alleged,
- (ii) the petitioner shall cooperate with the remaining part of investigation, and
- iii) 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.

10. Bail Application stands disposed of.

11. Send back the Case Diary.

JUDGE

Comparing Assistant