

GAHC010150112024



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

Case No. : Bail Appln./2198/2024

GOURI SARMAH
S/O LT. NARNATH SARMAH, R/O VILL- NO. 1 NAGAKHELIA, P.S.-DHEMAJI,
DIST- DHEMAJI, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. FIRUZ KHAN, MR. ABHIJIT MENA, RHITUSHREE
TALUKDAR

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND
ORDER

08.08.2024

Heard Ms. F. Khan, learned counsel for the petitioner, namely, Gouri Sarmah, who has filed this application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, with prayer for bail as he is behind bars since

21.07.2024 in connection with Dhemaji Police Station Case No. 116/2024 under Sections 406/420 of the Indian Penal Code, 1860.

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

3. It is submitted on behalf of the petitioner that there is no merit in this case as this case was registered under repealed sections of law. The BNSS had already come into force on 01.07.2024 and this FIR was registered under Section 406/420 of the IPC instead of registering this case under BNSS, 2023. The format of the FIR clearly reveals that this FIR was registered on 06.07.2024. It is also submitted on behalf of the petitioner that he had purchased some materials and he had returned the materials to the informant but the informant has falsely alleged that the petitioner had taken loan of Rs. 37,00,000/- and out of Rs. 37,00,000/-, the petitioner had paid only Rs. 16,30,000/- and the petitioner is yet to pay Rs. 20,70,000/- to the informant.

4. A scrutiny of the case diary reveals that investigation has progressed to a considerable extent. The FIR also prima facie also reveals that the petitioner had paid back Rs. 16,30,000/- to the informant. Indeed there are incriminating materials in the case diary against the petitioner.

5. I have considered the submission that the petitioner has pledged to cooperate with the remaining part of the investigation and to abide by any stringent bail conditions if imposed upon him. It appears that custodial interrogation may not be required to proceed with the investigation. The petitioner is a local resident and he is not a flight risk.

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

7. The petitioner shall be enlarged on bail on furnishing a bail bond of Rs.50,000/- (Rupees Fifty Thousand) with a suitable surety of like amount to the satisfaction of the CJM, Dhemaji, under the conditions that:

- (i) The petitioner shall refrain from such activities with which he is alleged,
- (ii) The petitioner shall cooperate with the investigation and appear before the I/O on every fortnight till completion of investigation,
- (iii) The petitioner shall not leave the jurisdiction of the Court without prior permission.

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

9. In the above terms, this Bail Application stands disposed of.

10. Send back the Case Diary.

JUDGE

Comparing Assistant