

GAHC010186632024



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

Case No. : AB/2413/2024

KASHYAP PHUKAN
S/O RAMEN PHUKAN, R/O NEAR NAGAON RAILWAY STATION, P.S.-
NAGAON SADAR, P.O.-NAGAON, DIST- NAGAON, ASSAM, PIN-782001

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. D SARMAH, B. D. KAKATI, S. J. SAHARIAH

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 08.10.2024

Heard Mr. A. Choudhury, learned counsel for the petitioner. Also heard Mr. D. P. Goswami, learned APP for the State.

2. Apprehending arrest in connection with Nagaon P.S. Case No. 859/2024 under Section 61 (2)/316(2)/318(4) BNS read with Section 21(1)/(2)/(3)/22/23

of the Banning of Unregulated Deposit Schemes Act 2019, the application is praying for Pre-arrest bail under Section 482 of BNSS.

3. The learned APP has produced the case diary and opposed the prayer for bail.

4. As per the contents of the FIR which is lodged by the Officer-In-Charge of Nagaon Sadar Police Station, the allegation against the petitioner is that Non-Banking Financial Company under the name of "Bulls Eye" is operating in Panigaon area which is falsely promising high returns on deposits including savings account, recurring deposits and fixed deposits etc., which is in violation of the banking regulations and the public are being described with fraudulent advertisement claiming affiliations with various public and private limited companies to deceive innocent customers. The allegations are to the effect that the said company is not registered with any regulatory agency, but it offers unusually high interest rates or returns to lure gullible customers, investors are unaware of where their money is invested, there is a high risk of losing the principal amount and the expected returns, and there is no protection or records for investors in case of default. Accordingly, a case was registered as Nagaon P.S. Case No. 559/2024 under Section 61 (2)/316(2)/318(4) BNS read with Section 21(1)/(2)/(3)/22/23 of the Banning of Unregulated Deposit Schemes Act 2019.

5. On a perusal of case diary, it is seen that till date, there is nothing in the case diary to suggest that even one person had made any investment in the company by way of deposits. There is no material available in the case diary to show that advertisements were made by the company soliciting investments and deposits.

6. Under such circumstances, the Court is inclined to grant pre-arrest bail to the petitioner, namely, Kashyap Phukan by providing that in the event of arrest bail bond of Rs.1,00,000/- with two surety of like amount to the satisfaction of the arresting officer.
7. Out of two bailors, one bailor shall offer his/her immovable property as security for grant of bail.
8. The Pre-arrest bail is grant on the following conditions:
 1. The petitioner shall appear before the I/O within 7(seven) days from the date of the order, failing which the pre-arrest bail shall stand lapsed.
 2. In the event, the investigation reveals that the petitioner has violated any law and has solicited any investments from the public on promise of high returns it would be open to the I/O to move this jurisdiction and pray for cancellation of bail.
 3. That the petitioner shall make himself available to the police or any other investigating agency or Court in the present case as and when required.
 4. That the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to Court or to any police officer or tamper with the evidence. He shall not, in any manner, try to overawe or influence or intimidate the prosecution witness.
 5. That the petitioner shall not obstruct the smooth progress of the investigation/trial.

6. That the petitioner shall not misuse his liberty in any manner.
7. That the petitioner shall not jump over the bail.
9. The case diary is returned.
10. The application stands disposed of.

JUDGE

Comparing Assistant