

GAHC010201832024



2024:GAU-AS:12222

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

Case No. : Bail Appln./2953/2024

ABINASH PARDHIA
S/O BARLERIA PARDHIA, R/O GORAJAN 16 NO BLOCK, P.S.-BORHULLA,
DIST-JORHAT

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. M BISWAS, J SINGPHO

Advocate for the Respondent : PP, ASSAM, SC, CBI

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

03-12-2024

Heard Mr. M K Choudhury, learned Senior Counsel, assisted by Mr. M. Biswas, learned counsel for the petitioner and Mr. M. Haloi, learned Special Public Prosecutor, CBI.

2. The petitioner, namely, **Abinash Pardhia**, son of Barleria Pardhia, resident of Gorajan 16 No. Block, Police Station-Borhulla, District-Jorhat has filed this application under Section 483 BNSS, 2023 praying for his release on bail in **Borhulla Police Station Case No. 28/2024** under Section 316(2)/318(4) BNS with added Section 316(5) BNS read with Sections 21 & 23 of the Banning of Unregulated Deposit Scheme Act, 2019, corresponding to G.R. No. 171/2024, in which he was arrested on 07.09.2024 and in custody since then.

3. As per the FIR dated 07.09.2024, lodged by the complainant before the Officer-in-Charge of Borholla Police Station, the allegation against the petitioner is that on the basis of secret information and few screenshots circulated in social media it came to know that the petitioner was actively indulging in financial scam violating the guidelines laid down by the RBI and SEBI. Accordingly, the said secret information was registered as Borholla Police Station GDE No. 12 dated 06.09.2024. Police personnel from Borholla police station with due authorisation visited the resident of the petitioner, apprehended him and took him to Borholla police station. On examination, it was found that the petitioner was involved in the illegal financial scam violating the provisions and guidelines of SEBI/RBI since long, promoting trading courses and investment opportunities through Facebook account in his name "Abinash Pardhia", Whatsapp group as "Abhinash Invest" and other channels, soliciting investments in unauthorised trading platforms such as Expert Opinion, IQ Option, Exness and Quotex that are deemed illegal by the RBI.

4. In the FIR it is also alleged that the petitioner collected substantial amount of

money from his clients under the pretext of giving high returns depositing their money into his own account and investing such amount in the illicit platforms illegally, encouraging his clients to deposit their money in his account. Thereby, the petitioner had wilfully and deliberately committed fraud, misappropriating huge amount of money of the depositors around 5 crores for his personal gain along with others.

5. Mr. Choudhury, learned Senior Counsel appearing for the petitioner submitted that the State Government by Notification dated 09.10.2014 transferred the said case to CBI and the Government of India, Ministry of Home by Notification dated 11.10.2024 gave its approval for enquiring the said Borholla P.S. Case by the CBI. Mr. Choudhury, learned Senior Counsel also submitted that on the basis of application filed by the CBI on 04.11.2024, the learned Special Judge, CBI, Assam by order dated 04.11.2024 added Section 316(5) BNS in the said Borholla P.S. Case No. 28/2024 against the petitioner, which after handing over to CBI has been re-registered as CBI, ACB, Guwahati Case No. RC017E2024A0027.

6. Mr. Choudhury, learned Senior Counsel placed before the Court that only by Notification dated 06.11.2024, the Government of India brought the provisions of the relevant Section of BNS, 2023 under the jurisdiction of Section 3 of the Delhi Special Police Establishment Act, 1946. Therefore, adding of Section 316 (5) in said Borholla P.S. Case No. 28/2024 by the learned Special Judge, CBI, Assam on 04.11.2024 is nonest in the eye of law.

7. Mr. Choudhury submitted that considering his length of detention since 07.09.2024, the petitioner should be considered for his bail in said Borholla P.S. Case No. 28/2024, which after handing over the investigation of the said case to the CBI has been re-registered as CBI, ACB, Guwahati Case No. RC017E2024A0027.

8. It is also urged by Mr. Choudhury, learned Senior Counsel that even if the FIR is read in proper, it will be short of the required ingredients of Sections 316(2)/316(5)/318(4) BNS as well as that of Sections 21 & 23 of the Banning of Unregulated Deposit Scheme Act, 2019.

9. As such, Mr. Choudhury submitted that the petitioner should be considered for his bail in said CBI, ACB, Guwahati Case No. RC017E2024A0027 arising out of Borholla P.S. Case No. 28/2024 for the reasons above and on considering his length of detention in custody since 07.09.2024.

10. Mr. Haloi, learned Special PP, CBI on the other hand submitted that the Ministry of Personal, Public Grievances and Pensions in the Department of Personal and Training, Government of India by Statutory Order No. 1979 dated 18.06.2024 have already notified the offences of Section 316 of the BNS along with other offences of the BNS under Section 3 of the Delhi Special Police Establishment Act, 1946. In that regard Mr. Haloi, placed a copy of the Gazette of India Weekly No.42 Part-II Section 3 Sub-Section (ii) dated October 20, 2024 – October 26, 2024.

11. It is submitted by Mr. Haloi that after transfer of the said Borholla P.S. Case No. 28/2024 to the CBI, the same has been re-registered as CBI, ACB, Guwahati Case No. RC017E2024A0027 on 23.10.2024. During this short period of investigation the CBI could unearth that from the witnesses who invested money with the petitioner that he collected from several depositors from Gorajan and its adjoining places since 2023 who made their investments in online trade through UPI/IMPS promising them to pay interest @ 30%. Initially, the petitioner paid the principal amount along with promised interest @ 30% to a few depositors so as to gain trust but as large numbers of people started lending money to the petitioner, he fraudulently defaulted in paying the principal amount and also the interest therein. In that manner, the petitioner collected huge amount of money, fraudulently running unregulated deposit scheme cheating large number of people, in the guise of running a coaching centre in the name of M/s Gorajan Goodluck Tutor Center Private Limited from his residence at Gorajan Village under Borholla Police Station, District-Jorhat.

12. Mr. Haloi on behalf of the CBI submitted that if the petitioner is released on bail at this stage, he shall influence the witnesses of the case and further he had invested the depositor's money in online trading, whose details have not yet been revealed by the petitioner. If released on bail the petitioner will access his online trading account and

siphoned off the depositors money. Moreover, the investigation by the CBI is in a nascent stage and that the details of all the depositors and investors with the petitioner are yet to be identified for which CBI needs some more time. There is all probability that if the petitioner is released on bail, he may flee or influence the important witnesses of the case. Mr. Haloi on behalf of the CBI further submitted that the CBI as of now have found the misappropriation of the money of the depositors and investors by the petitioner upto Rs. 5 crores and there is all likelihood that the actual amount defrauded by the petitioner will be huge on completion of the investigation as large number of depositors and investors are yet to be traced out. Considering all these, Mr. Haloi prayed for rejection of the bail of the petitioner.

13. Perused the case records relating to Borholla P.S. Case No. 28/2024 i.e., the investigation carried out by the Investigating Officer of said Borholla P.S. Case as well as the records of said CBI Case.

14. Case records of the CBI reveals that huge amount of money deposited by investors and depositors have been accumulated in the name of the petitioner and one Alina Pardhia sister of the accused, amongst others of his family and that from their two accounts huge amount of money deposited by the depositors and investors has been sent abroad.

15. It is also seen from the case records of CBI that the petitioner used some of his students as collectors of money from the depositors/investors and the petitioner was receiving money from several persons through internet banking, IMPS UPI etc., in various banks that are in his name and in the name of his other family members and he was transferring such deposits/investments to other person through UPI and by numbers of credit transactions in the bank account through Innovictic Tech, Nataraj Fashion Buld 357595 etc.

16. The statement of the witnesses so far collected by the CBI indicates that very few depositors/investors initially received the principal amount with huge interest thereon. Later on, such depositors subsequently deposited large amount of money, to whom the

petitioner yet to return the principal amount as well as the proposed interest.

17. Considering such materials in the case records and finding that investigation of the CBI is still under process, the Court is of the view that it is not a fit case to grant bail to the petitioner in said CBI, ACB, Guwahati Case No. RC017E2024A0027 arising out of Borholla P.S. Case No. 28/2024 considering his detention in custody since 07.09.2024 as huge amount of public money is involved.

18. Accordingly, this bail application of the petitioner, named above, in said CBI, ACB, Guwahati Case No. RC017E2024A0027 arising out of Borholla P.S. Case No. 28/2024 stands rejected.

19. Return both the case diaries herewith.

JUDGE

Comparing Assistant