

GAHC010214982024



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

Case No. : Bail Appln./3146/2024

RANJIT KAKOTY
S/O LATE BIRENDRA KAKOTY, R/O JIBAN PHUKAN NAGAR, P.S. AND DIST-
DIBRUGARH, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. A K GUPTA,

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 04.11.2024

Heard Mr. P. J. Saikia, learned Senior counsel assisted by Mr. A. K. Gupta, learned counsel for the petitioner. Also heard Mr. M. Haloi, learned Standing counsel, CBI.

2. By filing this application u/s 483 of BNSS, 2023, the petitioner, namely,

Ranjit Kakoty has sought for bail in connection with **Dibrugarh PS case No. 354/2024** u/s 316(2)/ 318(2) of BNS, 2023 read with section 21(1)/ 21(2)/ 21(3) and 23 of Banning of Unregulated Deposit Scheme Act, 2019.

3. The learned counsel for the petitioner has submitted that the petitioner has been languishing in judicial custody for more than 60 days since his arrest on 05.09.2024 and as such, he has completed the mandatory period of detention as per the alleged section of law. Charge sheet has not yet been submitted. Under such backdrop, the petitioner may be enlarged on bail.

4. In response, learned standing counsel CBI, submits that the accused is not merely a businessman but is in fact operating an unregulated deposit scheme under the name of 'Trading FX.' The accused has defrauded numerous investors by falsely promising exorbitant returns, thereby inducing them to deposit funds through deceitful means and subsequently, defaulted on these deposits. It is further submitted that the release of the accused would pose a significant risk to the ongoing investigation of the case and recovery of misappropriated funds. It is further contended that Section 409 IPC was added in the case. Hence, the statutory period of detention is 90 days. As the investigation is at preliminary stage under the CBI, the petitioner may not be enlarged on bail.

5. On that count, learned counsel for the petitioner submits that the provision of IPC has already been repealed since 01.07.2024. Hence, prayer for adding section 409 IPC cannot be taken into consideration on repealing Act.

6. Having heard the learned counsel for the parties, the admitted position is that the petitioner has completed 60 days in judicial custody. As the case was registered u/s 316(2)/ 318(2) of BNS and Section 21 and 23 of Banning of

Unregulated Deposit Scheme Act, the mandatory period is 60 days.

7. It is also not disputed that the provision of IPC has been repealed since 01.07.2024. The CBI had filed a petition before the CBI court with a prayer for adding Section 409 IPC on 30.10.2024 which was allowed by the CBI court accordingly.

8. Hon'ble Supreme Court in the case of ***Pernod Ricard India (P) Ltd vs. State of Madhya Pradesh and others*** reported in 2024 live law (SC) 321, has held that a repealed provision will cease to operate from the date of repeal and the substituted provision will commence to operate from the date of its substitution subject to specific statutory prescriptions.

9. Section 6 of General Clauses Act, 1897 deals with effect of repeal which is reproduced as follows –

“Effect of repeal.—Where this Act, or any [Central Act] or Regulation made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not—

(a) revive anything not in force or existing at the time at which the repeal takes effect; or

(b) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder; or

(c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or

(d) affect any penalty, forfeiture or punishment incurred in respect of any

offence committed against any enactment so repealed; or

(e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the repealing Act or Regulation had not been passed."

10. In view of the above, this court is of the view that as the petitioner has completed the mandatory period in jail custody, he is entitled to bail. Accordingly, the petitioner named above shall be released on bail on furnishing bail bond of **Rs. 50,000/-** with two suitable sureties of like amount to the satisfaction of the learned Special Judge, CBI, Guwahati subject to the following conditions:

- (i) The petitioner shall not leave the territorial jurisdiction of learned **Special Judge, CBI, Guwahati** without prior written permission from him/her;
- (ii) That the petitioner shall cooperate with the Investigating Officer as and when required;
- (iii) 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 the Police Officer or the Court.

Violation of any condition shall tantamount to cancellation of bail.

This disposes of the bail application.

JUDGE

Comparing Assistant