

GAHC010217522024



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

Case No. : Bail Appln./3174/2024

MOHIDUL ZAMAN
S/O ABDUL HUSSAIN, VILL- PALAHJURI, P.S.-MOIRABARI, DIST-
MORIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. A AHMED, U U KHAN

Advocate for the Respondent : PP, ASSAM,

Linked Case : Bail Appln./3143/2024

LAKHYAJYOTI BORA
S/O SRI PUTUL CH. BORA
R/O VILL- MAHROL
DIMORUGURI
P.S.-NAGAON SADAR
DIST- NAGAON
ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR
ASSAM

Advocate for : MD. A H LASKAR
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

**BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA**

ORDER

25.10.2024

Heard the learned counsel Mr. A Ahmed and Mr. A H Laskar, appearing for the petitioners. Also heard Mr. D. Das, learned Additional Public Prosecutor, Assam.

Both the bail applications are filed under Section 483 of BNSS,2023 for granting regular bail to the petitioners, namely, Sri Lakhyajyoti Bora and Mohidul Zaman, who were arrested in connection with Fatasil Ambari P.S. Case No. 252/2024.

Mohidul Zaman and some other persons had applied for loan from the State Bank of India, Binova Nagar Branch, Guwahati. He was sanctioned an amount of Rs.8,30,000/-. Subsequently, the bank authorities discovered that the petitioner and 11 [eleven] other borrowers had submitted false and fraudulent documents to secure the loan.

During investigation, it was discovered that the petitioner Lakhyajyoti Bora had provided those false documents to the borrowers in lieu of money. It is specifically mentioned in the Forwarding Report that this petitioner had taken an amount of Rs.25,000/- from the said Mohidul Zaman.

Mr. Das has submitted that the Case Diary reveals that a big racket is operating, who provide false documents to intending borrowers for getting loan.

Mr. Ahmed has submitted that Mohidul Zaman was regularly paying the instalments but for some reasons, he defaulted in making the payment of the instalments. Therefore, the bank authority has issued a notice under Section 25 of the Payment and Settlement Systems Act, 2007.

According to Mr. Ahmed, Mohidul Zaman is ready to repay the loan and he has been negotiating the matter with the bank.

I have considered the submissions made by the learned counsel of both sides.

Whenever an individual applies for a loan in bank he has to submit in support of his application and the bank authority is duty bound to examine those documents. If the documents are found to be satisfactory then only the bank disburses the loan.

In this case, it is clear in the face of the record that the bank authority has failed in their duty. Therefore, the bank authority should take appropriate action against those employees.

The petitioner Mohidul Zaman was a borrower. May be he had procured the loan by filing false documents. In spite of that, he was repaying the loan and is now agreeable to pay the entire loan.

So far as the case of Lakhyajyoti Bora is concerned, he is involved in a criminal act. Therefore, he does not deserve to be released on bail. Accordingly, the bail application of Lakhyajyoti Bora is rejected.

For the aforesaid reasons, the bail application of Mohidul Zaman is allowed. He shall be released on bail of Rs.25,000/- with a surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup (M), Guwahati.

Both the bail applications are disposed of.

Case Diary shall be returned.

JUDGE

Comparing Assistant