

GAHC010225482024



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

Case No. : Bail Appln./3323/2024

ANANYA DOLEY
D/O- LATE DEBEN DOLEY,
R/O- VILLAGE- TAMULI BHETI, NEAR TAMULI BHETI L.P SCHOOL, P.S-
GOHPUR, DIST-BISWANATH ASSAM

2: MONALISHA PEGU
D/O- UMESH PEGU
R/O- VILLAGE- BUKHAFUWAR
HAWAJANI
NEAR RADHIKA L.P SCHOOL
DIST-BISWANATH ASSAM

3: MAMTA HAZARIKA
D/O- LATE DHANTI HAZARIKA
H.NO- 120
HAIBARGAON
P.S AND DIST-NAGAON ASSAM

4: KARINA MEDHI
W/O-RUBUL BORAH
R/O- VILLAGE- SOLAMARA
P.S- GOHPUR
DIST-BISWANATH
ASSAM
PIN-78416

VERSUS

THE STATE OF ASSAM
REP BY PP ASSAM

Advocate for the Petitioner : MR PARAM HANGKHA KONWAR, SADDAM HUSSAIN, MR. A
R HAZARIKA, MR SAURADEEP DEY

Advocate for the Respondent : PP, ASSAM,

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

12/11/2024

Heard Mr. S Dey, learned counsel for the petitioners and Mr. K K Parashar, learned Additional Public Prosecutor, Assam for the State respondent.

2. This application under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, has been filed by the petitioners, namely, **(1) Smti Ananya Doley**, daughter of Late Deben Doley, resident of Village-Tamuli Bheti, P.S. Gohpur, **(2) Smti. Monalisha Pegu**, daughter of Sri Umesh Pegu, resident of Village-Bukhafuwar, Hawajan, District-Biswanath, **(3) Smti. Mamta Hazarika**, daughter of Late Dhanti Hazarika, resident of House No. 120, Haibargaon, P.S. Nagaon, District-Nagaon and **(4) Smti. Karina Medhi**, wife of Sri Rubul Borah, resident of Village-Solamora, P.S. Gohpur, District-Biswanath, seeking bail in **Gohpur P.S. Case No. 132/2024** registered under Sections 61(2)/316(2)/318(4) of the Bharatiya Nyaya Sanhita, 2023 and Sections 21(1)(2)(3) of the Banning of Unregulated Deposit Schemes Act, 2019, corresponding to G.R. No. 256/2024, wherein, they were arrested on 09.09.2024 and are in custody since then.

3. As per the FIR dated 07.09.2024, the facts of the case is that a company in the name of "Manobkalan Nidhi Limited" under Gohpur Police Station registered itself under the Companies Act, 2013, violating the guidelines/provisions laid down under Section 76 of Chapter V of the Companies Act, 2013, whereby it is provided that it is mandatory for a company to obtain the rating (including its net worth, liquidity and ability to pay its deposits on due date) from a recognized credit rating agency for informing the public the rating given to the company at the time of inviting deposits from the public and in violation of the provisions of Section 406 of Chapter XXVI of the Companies Act, 2013, which incorporated itself as a Nidhi Limited violating the provisions of consisting of the object for cultivating the habit of thrift and savings amongst its members, receiving deposits from and lending to, its members only, for their mutual benefit complying with such rules, as prescribed by the Central Government for regulation of such class of companies of Companies Act, 2013 as mentioned in the Banning of Unregulated Deposit Scheme Act, 2019. On verification, it is found that the said company has been found to collect unregulated deposits from the public by violating the provisions/guidelines of the above mentioned acts by issuing personal loan to the different customers of the entire area,

thereby, committing offence under Sections 61(2)/316(2)/318(4) of BNS, 2023 and Section 21(1)(2)(3) of the Banning of Unregulated Deposit Scheme Act, 2019.

4. The petitioner Nos. 3 and 4 are the FIR named accused persons in the case.

5. Accordingly, said FIR was registered as Gohpur P.S. Case No. 132/2024 under Sections 61(2)/316(2)/318(4) of the Bharatiya Nyaya Sanhita, 2023 and Sections 21(1)(2)(3) of the Banning of Unregulated Deposit Schemes Act, 2019, corresponding to G.R. No. 256/2024.

6. During investigation of the case, it is found that the said "Manobkalan Nidhi Limited" using the word 'Nidhi', accepts and receives deposits, misleading the public, inducing them that the scheme of the said company is regulated, safe and guaranteed by the proper authority, like RBI and SEBI and the present petitioners collected money from the innocent villagers by inducing them with false hope of giving huge interest on their investments.

7. Perused the case diary placed before the Court today by Mr. Parashar, learned Additional Public Prosecutor, Assam.

8. Case diary reveals that the petitioners and other associates in their own process, collected huge amount of money from the innocent villagers, promising them to give them loans on depositing security amount like, if they paid Rs.5,000/-, they will get a loan of Rs.50,000/- and if they paid Rs.10,000/- they will get a loan amount of Rs.1,00,000/- and the money that is deposited for such loan will remain in the account and the interest have to be paid for 5 years along with the deposited amount and for the said process, on receiving such money as security deposit, the company used to provide Savings Bank Account in the Gramin Bank of the area in favour of the depositors promising such depositors that the amount of Rs.50,000/-/Rs.1,00,000/- will be credited in their Savings Bank Accounts as per the deposits made by them, but they have to pay the EMI maximum up-to Rs.1800/- after 18 days and for opening of such bank account, they used to collect Rs.2000/-. After collecting such money, only few depositors/creditors received their money by way of cash, GPay and PhonePay.

9. Case diary also reveals that after release on bail, one of the accused persons, through others, was operating the said Manobkalan Nidhi Limited.

10. Though case diary is up-to 24.10.2024 and the concerned Investigating Officer of Gohpur Police Station left for training on 27.10.2024, but the charge-sheet in the case could not be filed till date and in the meanwhile, the petitioners have already completed the statutory/mandatory period of

their detention in custody since 09.09.2024 in said Gohpur P.S. Case No. 132/2024.

11. Considering that the petitioner No. 3, Smti. Mamta Hazarika was arrested on 08.09.2024 and the other three petitioners were arrested on 09.09.2024 and that in the meanwhile, the petitioners have completed the statutory/mandatory period of their detention in custody, this Court found that the petitioners, named above, are entitled for default bail in said Gohpur P.S. Case No. 132/2024.

12. Accordingly, the petitioners, namely, **(1) Smti Ananya Doley, (2) Smti. Monalisha Pegu, (3) Smti. Mamta Hazarika, and (4) Smti. Karina Medhi,** are granted default bail in said **Gohpur P.S. Case No. 132/2024** registered under Sections 61(2)/316(2)/318(4) of the Bharatiya Nyaya Sanhita, 2023 and Sections 21(1)(2)(3) of the Banning of Unregulated Deposit Schemes Act, 2019, corresponding to G.R. No. 256/2024, on furnishing a bail bond of Rs.50,000/- each, with 2 (two) local sureties each of the like amount, one of which shall be a Government Employee, either Central or State Government, to the satisfaction of the learned Sub-Divisional Judicial Magistrate, Gohpur, on conditions that the petitioners — **(i)** shall appear before the Investigating Officer of said Gohpur P.S. Case No. 132/2024 as and when they are required for necessary investigation of the case; **(ii)** shall not leave the territorial jurisdiction of the learned Sub-Divisional Judicial Magistrate, Gohpur, without obtaining prior written permission from the said authority; **(iii)** shall not hamper with the investigation, or tamper with the evidence of the case; **(iv)** 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 them from disclosing such facts to the Court or to any police officer; **(v)** shall not involve themselves in any criminal activities, failing which, the bail granted to them in the aforesaid Gohpur P.S. Case No. 132/2024 shall stand automatically vacated.

13. Bail application accordingly stands allowed to the extent above.

14. Return the case diary.

JUDGE

Comparing Assistant