

GAHC010233462024



2024:GAU-AS:11152

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

Case No. : Bail Appln./3415/2024

AFTER HUSSAIN
S/O ALTAB HUSSAIN, P/R/O JAJARI, BALIJAN, WARD NO. 1, P.S.-JAJORI,
DIST- NAGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR A W AMAN, MR. D K AGARWALA, MR. B HUSSAIN, MR S A BARBHUYAN, MR SARFRAZ NAWAZ, MR. SURAJIT DAS

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

14-11-2024

Heard Mr. S A Barbhuyan, learned counsel for the petitioner and Mr. K K Parashar, learned Additional Public Prosecutor, Assam for the State.

2. By this application filed under Section 483 BNSS, 2023, the petitioner, namely, **After Hussain**, son of Altab Hussain, resident of Jajari, Balijan, Ward No. 1, Police Station-Jajori, District-Nagaon; is praying for his bail in **North Lakhimpur Police Station Case No. 377/2021**, registered under Sections 420/406/34 IPC, corresponding to G.R. No. 849/2021,

wherein he was shown arrested on 26.09.2024 and is in custody since then.

3. As per the FIR dated 02.04.2021 lodged by the complainants before the Officer-in-Charge of Lakhimpur Police Station, the allegation of the case is that the petitioner of Jajori, District-Nagaon and one Md. Riyaj Ali of Dhakuakhonia under Police Station-Kanigaon cheated the complainants assuring to give them jobs and thereby collected huge amount of money from them and other people of Lakhimpur. According to the complainants, both the FIR named accused persons including the petitioner collected money from people and the complainants on the pretext of providing jobs in a bank named "Amar Axom Bikash Nidhi", established by those two accused persons, and collected huge amount of money. Moreover, the FIR named accused persons also collected money from other persons without any proper documentation. By their such acts, the FIR named accused persons misappropriated huge amount of money from poor jobless/un-employed youth. By the said FIR the complainants requested the authority concerned of Lakhimpur Police Station to enquire into the matter and to do the needful in accordance with law and further, to recover the amount from the accused persons which they have collected by inducing the complainants and others with interest and also to recover the records relating to the amounts collected by those accused persons in the name of opening of passbook in the said "Nidhi".

4. Accordingly, North Lakhimpur Police Station Case No. 377/2021 was registered under Sections 420/406/34 IPC.

5. Petitioner stated that he is no way involved in the misappropriation of money as alleged by the complainants in the FIR. It is stated that though he tried to set up a bank, but the business miserably failed as people showed their suspicion on such bank. It is also stated by him that in another case, i.e., in Nagaon P.S. Case No. 799/2024 under Sections 120(b)/420/406/468/471 IPC read with Sections 21/23 of the Banning of Un-regulated Deposits Scheme Act, 2019, the petitioner was arrested on 17.08.2024, wherein the learned Sessions Judge, Nagaon by its order dated 14.10.2024 in Bail Application No. 1312(N)/2024 released him on bail. It is also stated by the petitioner that in said North Lakhimpur P.S. Case No. 377/2021 corresponding to G.R. No. 849/2021, the learned Chief Judicial Magistrate, Lakhimpur by order dated 18.10.2024 rejected the bail prayer of the petitioner. According to the petitioner, there is no prima-facie evidence to show his involvement in the case and that the entire case of the prosecution is based on assumptions and fancies.

6. Perused the case diary placed before the Court by Mr. K K Parashar, learned APP, Assam.
7. It is seen from the case diary that the Investigating Officer of the case already recorded the statement of the acquainted witness of the case. Statements of some of the acquainted witnesses of the case have also been recorded by the learned Judicial Magistrate First Class, Lakhimpur, North Lakhimpur under Section 164 CrPC, recorded in the early part of September, 2021.
8. Police have seized e-PAN Card issued in the name of “Amar Axom Vikash Nidhi Limited” issued by Income-Tax Department, Government of India on 07.01.2019 and also Certificate of Incorporation of the said “Nidhi” with its address near Downtown Hospital, Dispur, Guwahati, Kamrup (Metro), Assam. The I.O. of the case also collected some of the passbooks issued by the said “Nidhi” showing certain transactions of money. Case diary also reveals that though money was deposited by the account holders of the said “Nidhi Limited”, but the said amounts were transferred in the name of the beneficiary, the present petitioner in his personal account.
9. Further from the case diary it is also seen that the other FIR named accused Md. Riyaj Ali was arrested on 02.09.2021 in said North Lakhimpur Police Station Case No. 377/2021, but he was released on default bail after 60 days due to non-filing of Charge-Sheet in the case.
10. Charge-Sheet in said North Lakhimpur Police Station Case No. 377/2021 has not yet been filed and the case is pending for investigation since long.
11. Case diary reveals that an amount of Rs. 2,65,000/- was collected by the FIR named accused persons from seven local youths, including the complainants, assuring them to provide jobs in “Amar Axom Vikash Nidhi Limited” at Moidomia, North Lakhimpur, Lakhimpur, which was later found that the said branch was established without any valid documents. It is also seen that the case is pending for verification of e-PAN certificate issued by the Income-Tax Department, Government of India and the Certificate of Incorporation issued by the Ministry of Corporate Affairs, Government of India that are issued in the name of “Amar Axom Vikash Nidhi Limited”, noted above.
12. Considering the materials in the case diary and the period of detention in custody since 26.09.2024, the Court is of the view that further custodial detention of the petitioner, namely, **After Hussain**, in said **North Lakhimpur Police Station Case No. 377/2021** is not warranted for investigation of the said case. As such, this bail application of the petitioner in said

North Lakhimpur Police Station Case No. 377/2021 is accepted.

13. Accordingly, the petitioner, namely, **After Hussain**, be released on bail in said **North Lakhimpur Police Station Case No. 377/2021** on furnishing bail bond of Rs. 50,000/-, with 2 (two) local sureties of the like amount, one of which shall be a Government employee, either State or Central Government, to the satisfaction of the learned Chief Judicial Magistrate, Lakhimpur, North Lakhimpur, subject to the conditions that the petitioner, named above —

- i)** shall appear before the concerned Investigating Officer of said North Lakhimpur Police Station Case No. 377/2021 during the office hours, and as and when he is required for necessary investigation of the case;
- ii)** shall not leave the territorial jurisdiction of North Lakhimpur Police Station, without obtaining prior written permission from the concerned Investigating Officer of the case;
- 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 and;
- v)** shall not involve himself in any criminal activities in future.

14. Any violation of the aforesaid terms and conditions by the petitioner, namely, **After Hussain**, the bail granted to them in said North Lakhimpur Police Station Case No. 377/2021 shall stand automatically vacated.

15. This bail application accordingly stands allowed.

16. Return the Case Diary herewith.

JUDGE

Comparing Assistant