GAHC010151612020

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

Case No. : Bail Appln./2261/2020

BINITA PEGU
W/O- SRI RAM PD. PEGU, R/O- WARD NO.4, P.S. AND DIST.- DHEMAJI, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY P.P., ASSAM

Advocate for the Petitioner : MR. K BORUAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

Date : 01-12-2020

Heard Mr. K. Boruah, learned counsel for the accused petitioner. Also Heard Mr. N.K. Kalita, learned Addl. Public Prosecutor, Assam appearing for the State respondent.

By this petition under Section 439 Cr.P.C., the petitioner, namely **Smti. Binita Pegu** has prayed for grant of bail in connection with **Dhemaji P.S. Case No. 458/2020** registered u/s **419/420/468** of the IPC [corresponding to G.R. Case No. 1129/2020(DMJ)].

The case diary, as called for, is placed before the Court.

Mr. K. Boruah, learned counsel for the accused petitioner, submits that accused petitioner has been behind the bar for last 49 days since 13.10.2020 despite being innocent. Mr. Boruah further submits that the allegation is basically against the co-accused persons, namely Trishna Pegu and Ram Prasad Pegu, subject, of course, to materials on the case diary. Mr. Boruah therefore submits that the accused may be released on bail subject to any condition.

The case relates to the allegation that the accused Trishna Pegu had fraudulently taken Rs. 16,05,400/- from the complainant No. 1 and Rs. 9,40,000/- from the complainant No. 2 totalling Rs.25,45,400/- for giving admission to their son and daughter in MBBS Course in All India Institute of Medical Science and thereafter misappropriated the said money. Upon lodging a case on 03.06.2020 before the Sadar Police Station for recovery of the money, the accused persons executed two agreements before the Notary Public and promised to return the aforementioned money. Along with the said agreement, Cheque No. 457569, 804215 drawn at UBI Bank, Dhemaji of A/C No. 0749010108 was issued in favour of the Complainant No. 1 covering Rs. 16,05,400/- and Cheque No. 457570 in favour of the complainant No. 2 for Rs. 9,40,000/- for the said A/C No. 0749010108 of the same bank. But, when the complainant No. 1 deposited Cheque No. 457569 at her bank, the said cheque was dishonoured by the bank mentioning that the signature and cheque issued by the accused was forged and also that there was no transaction in the said account since last two years.

On scrutiny of the case diary and hearing the learned counsel of both sides, this Court finds no prima facie incriminating evidence against the present accused petitioner justifying her further detention in the interest of the ongoing investigation into the case.

Therefore, it is provided that the accused/petitioner, named above, shall be released on bail of **Rs. 30,000/- (Rupees Thirty Thousand)** with one surety of like amount to the satisfaction of the **learned C.J.M., Dhemaji** subject, of course, to the following conditions-

i) That the accused/petitioner shall cooperate with the Investigating Officer as and when required;

ii) That the accused/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;

iii) That the accused/petitioner shall not hamper or tamper with the investigation in any manner; and

iv) That the accused/petitioner shall refrain from committing any similar offences in future of which she is accused or suspected of commission.

Return the case diary.

This disposes off the bail application.

JUDGE

Comparing Assistant