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

Case No. : Crl.Pet./1352/2024

PRASUN BANIK
S/O PRANAB KUMAR BANIK
R/O GANGAIL ROAD, NEAR DAS PATTI, P.S. WEST AGARTALA, AGARTALA, TRIPURA, PIN-799002

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PP, ASSAM

2:SHRI MANNA PAUL
S/O LT. MUKUL CHANDRA PAUL

R/O NARSING ROAD (EAST) AMBICAPATTY
P.O. SILCHAR

DIST. CACHAR
ASSA

Advocate for the Petitioner : MR. R J DAS, MR. N BARUAH
Advocate for the Respondent : PP, ASSAM, SABNAM AHMED (R-2),MR. B D CHOWDHURY (R-2)

BEFORE
HONOURABLE MR. JUSTICE PRANJAL DAS

Date on which judgment is reserved: 19.02.2026

Date of pronouncement of judgment: 26.02.2026

Whether the pronouncement is of the N/A

Operative part of the judgment :

Whether the full judgment has been
Pronounced :Yes

JUDGMENT & ORDER (CAV)

1. Heard Mr. S. Lodh, learned counsel for the petitioner. Also Mr. R.R. Kaushik, learned Addl. P.P. appearing for the State respondent and Mr. R. Sekhar, learned counsel for the respondent no.2.

2. The petitioner, **Prasun Banik**, invoking section 483 (3) of the BNSS, 2023, read with Section 528 of BNSS, seeks setting aside of the order dated 19.09.2024, passed by the learned Additional Sessions Judge, (FTC) Cachar, in Criminal Misc. Case No. 916 of 2024, granting anticipatory bail to the respondent No. 2, Manna Paul, in Silchar P.S. Case No. 708/2024 under Section 306 BNSS.

3. The petitioner herein is stated to be the Director of one Himani Agency Private Limited, which is running Tanishq Jewellery showroom in Silchar Town and he had lodged an FIR dated 09.08.2024 with the allegation that the respondent No. 2, who was working as the Store Manager of the showroom, had stolen some missing jewelleries from the showroom, the value of which was Rs.1,34,49,610/-. It was also alleged that since the jewelleries were found to be missing and suspected to be stolen by the accused, he has been untraceable.

4. The respondent No. 2 preferred an anticipatory bail application with the aforesaid number, which was taken up before the learned Additional Sessions Judge, (FTC) Cachar and on 07.09.2024, he was granted interim bail, and after hearing, the interim bail was made absolute vide order dated 19-09-2024, which is being assailed by the petitioner herein.

5. The order granting bail imposed several conditions being cooperation to the I/O; appearing before him when required; not interfering in the investigation and not leaving the jurisdiction of the P.S without prior permission of the O.C. of the police station. It appears that one of the contentions before the learned Court below made by the respondent No. 2 was that he had already resigned from his job in the firm of the petitioner on 14.06.2024 and the incident had taken place thereafter and he sought to wash off his hands from the incident.

6. Mr. S. Lodh, the learned counsel for the petitioner submitted that the accused submitted a purported resignation letter addressed to a wrong Email ID being btpsln@titan.co.in, though the actual email ID of their organization was btqsln@titan.co.in. It is submitted that he misled and played fraud upon the Court by saying that he had resigned from the firm on 14th June, 2024, though he was very much present around 06.08.2024 when the incident took place. Apart from the high value of the ornaments stolen by him, the same has also not been recovered.

7. It is stated and submitted by the petitioner that the accused had signed the attendance of the firm/showroom on 06.08.2024; attended press meet of the showroom on 13.07.2024, and was also present at a Chess competition organized by the showroom on 04.08.2024. It is contended and submitted that as the accused has secured the bail order by misleading the Court, the same should be cancelled.

8. In support of his contentions, the learned counsel for the petitioner cites the following decisions:-

(i) ***Vishnu Vardhan @ Vishnu Pradhan 2025 INSC 884,***

(ii) ***Puran V. Rambilas and Another Vs. Shekhar and Another Vs. State of Maharashtra and Another in AIR 2001 SC 2023,***

(iii) ***Deepak Yadav Vs. State of Uttar Pradesh and Another (2022) 8 SCC 559,***

(iv) ***Himanshu Sharma Vs. State of Madhya Pradesh (2024) 4 SCC 222.***

9. On the other hand, Mr. R. Sekhar, learned counsel for the respondent no.2/accused submits that after being granted bail, he has not violated any conditions and that the investigation is still on and charge-sheet has not been submitted. It is submitted that the accused is not involved in the offences and that the learned Court below did not commit any error in granting him bail and that there is no sufficient reason for cancelling his bail.

10. The case diary of the investigation was called for and received and I have perused the relevant portions thereof.

11. Mr. Kaushik, learned Addl. P.P. submits that apart from non-recovery of the gold ornaments, suspected to be stolen and valued at more than Rs. 1 crore, the accused has also not cooperated with the investigation. The learned Addl. P.P. has drawn attention of the Court to the noting of the I/O mentioning that the accused has not cooperated with the investigation; has not appeared subsequently upon being called and has also been found to be absconding.

12. It is revealed from the case diary that the suspected to be stolen gold jewellery is yet to be recovered and that the I/O has contended that the custodial examination of the accused is very much necessary. The statement of the accused recorded initially after his being granted interim bail is available. The said statement *belies* his claim that he had resigned from the firm of the petitioner in mid June, 2024. From the statement, it is

revealed that he was asked to return the jewellery around 06.08.2024 and that he stated about the jewellery being with him and told the staff to show it as stock. He has stated about taking loan on the jewellery and investing the same is stock market and losing the entire money. The documents collected by the I/O from Bank of India supports the theory of the accused taking a huge gold loan from the bank.

13. The investigation has thus revealed that with the jewellery that he took from the showroom, he took huge gold loan; invested the same in stock markets, lost money and thereafter, absconded. The materials also indicate credit of salary into the account of the petitioner in July, 2024. Prima facie, the email ID to which the accused purportedly sent his resignation letter turns out to be different from the email ID of the firm.

14. The materials annexed by the petitioner also *belies* the claim that he had resigned from the showroom before the incident. Rather, all the materials, including his statement, prima-facie indicate that the theory of resignation was a false one invented to escape the criminal liability.

15. To that extent, I find force in the contention of the petitioner's side that the accused misled the learned Court below and played fraud upon it vis-a-vis a story of resignation and in securing the order of anticipatory bail.

15. With regard to cancellation of bail, paragraph No.-11 of ***Himanshu Sharma (supra)*** may be reproduced herein below:-

> "*11. Law is well settled by a catena of judgments rendered by this Court that the considerations for grant of bail and cancellation thereof are entirely different. Bail granted to an accused can only be cancelled if the Court is satisfied that after being released on bail, (a) the*

accused has misused the liberty granted to him; (b) flouted the conditions of bail order; (c) that the bail was granted in ignorance of statutory provisions restricting the powers of the Court to grant bail; (d) or that the bail was procured by misrepresentation or fraud. In the present case, none of these situations existed."

16. Thus, from the law laid down by the Hon'ble Apex Court - it is clear that violation of bail conditions can be a ground for cancellation of a bail order as is well settled and that a bail order can also be cancelled, if it was procured by misrepresentation or fraud.

17. The aforesaid principle would be squarely applicable to the facts and circumstances that have emerged in the instant case as narrated and discussed above. Clearly, the respondent No.2/accused misrepresented facts amounting to fraud regarding his resignation in securing the bail order. Therefore, on the touchstone of the principles of law laid down by the Hon'ble Apex Court, the bail granted to the accused deserves to be cancelled in exercise of both the inherent powers of this Court as well as the powers of bail cancellation available to this Court concurrently with that of the Sessions Court.

18. Accordingly, in such view of the matter and in the background of the above discussion - the order dated **19.09.2024** passed by the learned Additional Sessions Judge, (FTC) Cachar, **in Criminal Misc. Case No. 916 of 2024**, granting anticipatory bail to the petitioner in **Silchar P.S. Case No. 708/2024** under Section 306 BNSS - is hereby **cancelled** and **set aside**.

19. A copy of this order shall be sent to the I/O of this case, along with the case diary.

20. The instant criminal petition stands **allowed** and **disposed of**, on the aforesaid terms.

JUDGE

Comparing Assistant