

# Joy Modak vs The State Of Assam on 6 November, 2024

**Author: Manash Ranjan Pathak**

**Bench: Manash Ranjan Pathak**

Page

GAHC010196022024

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

Case No. : Bail Appln./2875/2024

JOY MODAK  
SON OF LATE MONI MODAK, RESIDENT OF HOUSE NO. 249, BIRKUCHI  
NAMGHAR PATH, P.S. NOONMATI, GUWAHATI

VERSUS

THE STATE OF ASSAM  
REP BY THE PP ASSAM

Advocate for the Petitioner : MR. A K BHUYAN, MR J DAS, MR A SHARMA, MR A  
TALUKDAR, MS. N CHOUDHURY, MR. A KHOUND, MS B BORA

Advocate for the Respondent : PP, ASSAM, SC, CBI

BEFORE  
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

06-11-2024 Heard Mr. A K Bhuyan, learned counsel for the petitioner and Mr. M Haloi, learned Special Public Prosecutor, CBI for the respondent.

2. By this application under Section 483 BNSS, 2023, the petitioner, namely, Sri Joy Modak, son of Late Moni Modak, resident of House No. 249, Birkuchi Namghar Path under Noonmati Police Station, Guwahati, has prayed for his release on bail in Geetanagar Police Station Case No. Page

No.# 2/6 174/2024 registered under Sections 61(2)(a)/111(3)/316(5)/318(4) of the Bharatiya Nyaya Sanhita, 2023 read with Sections 21/23 of the Banning of Unregulated Deposit Schemes Act, 2019, corresponding to G.R. Case No. 5207/2024, wherein he was arrested on 05.09.2024 and is in jail custody since then for more than 63 days.

3. It is stated on behalf of the petitioner that he is a business man and a partner of a Limited Liability Partnership, namely, GoMillions LLP that operates under a valid registration certificate from Food Safety and Standards Authority of India under Food Safety and Standards Act, 2006 with trade licence from Gauhati Municipal Corporation, Guwahati and having relevant GST certificate. It is also stated that said Limited Liability Partnership, namely, GoMillions LLP has the certificate of recognition issued by the Ministry of Commerce and Industry Department for promotion of industry and internal trade and also has the license to sale and supply cosmetic goods and other products like salts, spices, and soups etc.

4. Being a partner of said Limited Liability Partnership, GoMillions LLP, petitioner stated that he has been carrying out business in due manner paying income tax and whatever amount he received from his business are based on records.

5. Though it is alleged, but it is submitted on behalf of the petitioner that neither any amount has been collected from anyone illegally and/or fraudulently nor he cheated anyone, but the amount that he received is in the process of a chain system in the design of a pyramid that did not affect any one involved in the said chain system.

6. Petitioner submitted that he is no way connected with the case as been alleged and that the Investigating Officer in his forwarding report while forwarding the petitioner did not cite the reasons for his custody and the act of keeping him in jail custody since 05.09.2024 is in clear violation of law and also the provision of Section 35(3) BNSS, 2023 that is mandatory in nature.

7. Mr. Bhuyan, learned counsel on behalf of the petitioner submitted that neither Section 111(3) BNS, 2023 is applicable with the petitioner nor there are any ingredients under Section 316(5) of the BNS, 2023 against him so as to keep him in custody for more than 60 days.

8. Mr. Bhuyan, learned counsel in that regard placed the provisions of Sections 111(3) and 316(5) of the BNS, 2023 and submitted that those provisions are not attracted and also not applicable pertaining to the allegations made against the petitioner with regard to the present case.

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9. Mr. Bhuyan, further stated that since the provisions of the Sections 111(3) and 316(5) of the BNS, 2023 are not applicable to the petitioner in the case in hand, he is entitled for release on bail in said Geetanagar P.S. Case No. 174/2024 as he has already completed the mandatory/statutory period of detention with regard to the remaining Sections of the said case that is sixty days, whereas, the petitioner is in custody for more than sixty three days in said Geetanagar P.S. Case No. 174/2024 since 05.09.2024.

10. Mr. Bhuyan, learned counsel for the petitioner submitted that the Bail Objection filed by the CBI is on the basis of knowledge and not only on the basis of records that itself makes the submission of the CBI made in the said objection unacceptable. He has also placed the reply filed by the petitioner to the said objection of the CBI.

11. Mr. Bhuyan, submitted that the petitioner will abide by all the conditions that may be imposed by the Court upon him, on releasing him on bail in said Geetanagar P.S. Case No. 174/2024.

12. In support of his argument for release of the petitioner on bail, Mr. Bhuyan, learned counsel relied on the following decisions of the Hon'ble Supreme Court in the cases of --(i) Sanjay Chandra Vs. Central Bureau of Investigation, reported in (2012) 1 SCC 40; (ii) Madhu Limaye, In re, reported in (1969) 1 SCC 292; (3) Sharat Babu Digumarti Vs. Govt. (NCT of Delhi), reported in (2017) 2 SCC 18; (4) State of U.P. Vs. Aman Mittal, reported in (2019) 19 SCC 740 and (5) Arnab Manoranjan Goswami Vs. State of Maharashtra, reported in (2021) 2 SCC 427.

13. As per the FIR dated 04.09.2024, lodged by the Inspector of Police, Officer-in-Charge of Geetanagar Police Station the case is that on the basis of specific input that the petitioner and one, Sri Rishi Raj Gogoi, resident of Geetanagar, Guwahati, along with some other accomplices have been running stock trading business in the guise of a Company, namely, GoMillions LLP at Guwahati and its adjoining areas by establishing their office at Hatigarh Chariali. The complainant along with the combined staff and as per the guidance of the Assistant Commissioner of Police apprehended the petitioner, i.e., one of the accused, from Nazirakhat near Toll Plaza and during his spot interrogation, he stated that he and the other accused Rishi Raj Gogoi are the Managing Directors of the said Company that use to sell various cosmetics and other products to the customers. But, in reality they along with Biraj and Subir and some others have been running stock trading business in the guise of their said Company GoMillions LLP by inducing and soliciting several public to invest their money in the said Company and by that they managed to collect Page No.# 4/6 huge amount of public deposit with false promise to give them high return of double and triple growth of the invested amount to the investors within a very short period. However, the accused persons failed to keep their promises as they invested the amount of money, collected from the public by cheating, in share market for their wrongful personal gain, by violating the statutory guidelines of the Securities and Exchange Board of India/Reserve Bank of India and thereby they have been committing a major financial scam by cheating the public with false promise of high return and by misappropriating their money with criminal conspiracy. The deposits accepted by the Company are the unregulated deposits and thereby they have been committing a major financial scam by cheating the public with false promise of high return and by misappropriating their money by criminal conspiracy. The deposits accepted by the Company of the accused persons are unregulated deposits.

14. During investigation, it is found that on the strength of said GoMillions LLP, the petitioner and the other accused and their associates had created a platform named TradeBull through which they have been collecting money from several innocent public with false promise to give them high return in short duration. Accordingly, said FIR was registered on 04.09.2024 as Geetanagar P.S. Case No. 174/2024 under Sections 61(2)(a)/111(3)/316(5)/318(4) of the BNS, 2023 read with Section 21/23 of the Banning of Unregulated Deposit Schemes Act, 2019.

15. Mr. Haloi, learned Special Public Prosecutor for the CBI stated that the Government of Assam on 09.10.2024 transferred the investigation of said Geetanagar P.S. Case No. 174/2024 to the CBI and the Central Government gave its approval on 11.10.2024. Mr Haloi, also stated that the State Government on 14.10.2024 gave part of the relevant case diary to the CBI and accordingly, said Geetanagar P.S. Case has been re-registered as CBI Guwahati Case No. RC 2262023E0002. Mr. Haloi further stated that the State handed over the other part of case diary of said Geetanagar P.S. Case to the CBI on 25.10.2024. Thereafter, the CBI started the investigation of the case with its plan of action.

16. Mr. Haloi, learned Spl. PP CBI submitted that in this short duration of time the CBI could collect a list of transactions made in favour of the petitioner, but the same is not a complete one and needs to be further investigated upon.

17. Placing the statement of one of the SBI Bank account of the petitioner with his wife, starting from 01.01.2024 to 31.10.24, which the CBI could collect within their short period of investigation, Mr Haloi, Special PP, CBI stated that though the petitioner is running a business of Page No.# 5/6 cosmetics but said bank account statements of the petitioner shows that the petitioner is receiving huge amount of money in his personal account from different investors, where majority of the payments that he received are through UPI, which also goes to show that investors made huge investments through the personal account of the petitioner in the name of GoMillions LLP. Mr Haloi, Special PP, CBI submitted that this itself attracts Section 316(5) of the BNS, 2023 in the case and there is a need of further investigation of the case.

18. Mr. Haloi, Special PP, CBI submitted that since there is involvement of huge amount of money collected from public with false promise to give them high return of double and triple growth of the invested amount to the investors within a short period violating the provisions of law, done in the name of the company of the petitioner, which is not a registered financial institution established with due approval of the Securities and Exchange Board of India and/or the Reserve Bank of India, rather it is a company involved in the cosmetics, thereby the petitioner is involved in committing economic offence with huge loss to the State.

19. Relying on the decision of the Hon'ble Supreme Court in the case of Y.S. Jagan Mohan Reddy Vs. Central Bureau of Investigation, reported in (2013) 7 SCC 439, Mr Haloi, Special PP, CBI submitted that the petitioner is not entitled for bail in the case and sufficient time should be provided to the CBI to unearth the illegal investments made in the name of said company collected by the petitioner and other accused persons of the case cheating the investors with false hope to give them high return of double and triple growth of their invested amount in violation of law established.

20. From the case diary placed by the CBI before the Court, it is seen that CBI has collected certain materials that shows large numbers of investors/ creditors have through internet banking made investments/credited amounting to Rupees of five digits to six digits and others in the Bank Account of GoMillions LLP regularly and further, regular debit has been made in the Bank Account of GoMillions LLP in different Banks amounting to Rupees of seven digits regularly, indicating

involvement of GoMillions LLP in huge amounts of financial investments and transactions.

21. Case diary placed by the CBI indicates that said GoMillions LLP had also opened up numbers of different heads of accounts in different branches of different Banks that too with different identities with huge monetary transactions.

22. Considered the judgements cited by both, Mr. Bhuyan, learned counsel for the petitioner Page No.# 6/6 and Mr Haloi, learned Special Public Prosecutor for the CBI.

23. On perusal of the case diary placed by the CBI, found sufficient incrementing materials regarding involvement of the petitioner in the alleged crime. As such, this Court is of the view that it is not a fit case to grant bail to the petitioner in the case considering his detention since 05.09.2024.

24. Accordingly, this bail application of the petitioner, namely, Sri Joy Modak, son of Late Moni Modak, in CBI Guwahati Case No. RC 2262023E0002, arising out of Geetanagar Police Station Case No. 174/2024 (corresponding to G.R. Case No. 5207/2024), stands rejected.

25. Return the case diary here with to the concerned Special Public Prosecutor of CBI.

JUDGE Comparing Assistant