

GAHC010175922023



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

Case No. : AB/2806/2023

DIVYAMALA PRAKASH
D/O OM PRAKASH SINGH YADAV
R/O 76, NAI-NAIYWAN, P.O. ANCHAL, P.S. TELHARA, DIST. NALANDA,
BIHAR, PIN-801302

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR T H HAZARIKA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

13.09.2023

Heard Mr. T. H. Hazarika, learned counsel for the applicant. Also heard Mr. K. Baishya, learned Additional Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with the **Basishtha P.S. Case No. 421/2023**, under Sections 120[B]/419/420/468/471 of the IPC, this application, under Section 438 of the Code of Criminal Procedure, 1973, is preferred by accused/applicant, namely, **Smti. Divyamala Prakash** for grant

of pre-arrest bail.

3. The aforementioned case has been registered on the basis of one F.I.R., lodged by one Binanda Nath of AIR TRANSPORT CORPORATION, Beltola, Guwahati on 05.07.2023. The essence of allegations made in the FIR is that the applicant had fraudulently executed a false Power of Attorney, registered vide SL No. 8407, Deed No. 1524, before the Sub-Register, Kamrup, Guwahati for a plot of land measuring 3 Bighas 3 Kathas 1.09 Lecha, covered by Dag No. 2755, 2756, 2757 and Patta No. 237 of Revenue Village No.1, Maidamgaon, which is being owned by M/s AIR TRANSPORT CORPORATION, by forging the signature and thumb impression of Sudhir Goyal.

4. Mr. Hazarika, learned counsel for the applicant, submits that the applicant was introduced to Sudhir Goyal by one Rajib Jain of Dibrugarh and Mr. Goyal was in need of money and for selling a plot of land measuring 3 Bighas 3 Kathas 1.09 Lecha, covered by Dag No. 2755, 2756, 2757 and Patta No. 237 of Revenue Village No.1, Maidamgaon, executed a Power of Attorney in favour of the present applicant on 15.03.2022, and thereafter the applicant had transferred a sum of Rs. 40,00,000/- into the account of Rajib Jain and the Power of Attorney was executed by way of commission, as at the relevant point of time there was outbreak of Covid-19 Pandemic, and pursuant to the said Power of Attorney the applicant had entered in to agreements with two third parties and took a sum of Rs. 1.4 Crore and Rs. 20 Lacs respectively, and thereafter, one of the third party had applied for no objection certificate and then Sudhir Goyal had filed objection, denying execution of the power of Attorney. Thereafter, the applicant came to know that the Power of Attorney was cancelled by forging her signature and that the matter will be settled

amicably and that the applicant is no way involved with the offence alleged in the FIR and she is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, by producing the Case Diary before this Court, Mr. Baishy, learned Additional Public Prosecutor submits that the investigating officer has collected sufficient incriminating materials against the applicant and that she had not only forged the signature of Sudhir Goyal, but also the signature of Advocate and that the investigation is going on and the custodial interrogation of the applicant is necessary to unearth the racket and to apprehend the co-accused who are involved in the offence and therefore, it is contended to dismiss the petition.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition as well as the documents placed on record and also perused the Case Diary produced before this Court with the assistance of learned Additional Public Prosecutor.

7. The case diary indicates that the IO has collected sufficient incriminating materials against the applicant and the investigation is still going on and the co-accused are yet to be arrested. Having regards to above and also having regards to the nature and gravity of the offence, this Court is of the considered opinion that this is not a fit case where the privilege of pre-arrest bail can be extended to the applicant. In the given facts and circumstances of the case, custodial interrogation of the applicant appears to be very much necessary, in the interest of investigation and therefore, the petition stands dismissed.

8. Case diary be returned.

JUDGE

Comparing Assistant