

GAHC010201122023



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

Case No. : Bail Appln./3159/2023

DIPAK URANG
S/O PRADIP URANG
PERMANENT RESIDENT OF VILL- NIZ ROHMORIA
P.O. MOHMARA DIKOM
P.S. ROHMORIA
DIST. DIBRUGARH
ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP
ASSAM

Advocate for : MR. S BANIK
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

06.10.2023

Heard Mr. S. Banik, learned counsel for the accused and also heard Mr. P. Borthakur,

learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application, under section 439 Cr.P.C. is preferred by accused, namely, Dipak Urang, who has been languishing in jail hazoot since 31.08.2023, in connection with BIEO P.S. Case No.21/2023, under Section 120(B)/379/3411/119 IPC, for grant of bail.

3. It is to be noted here that the above noted case has been registered on the basis of one FIR lodged by one Sanjib Kumar Goswami, Inspector of Police, BIEO, Assam on 26.08.2023.

4. The essence of allegation made in the said FIR is that on the basis of news item published in Axomia Pratidin on 04.03.2023, a preliminary enquiry was conducted by Shri Amrit Ch. Kalita, Dy.S.P. CM's SVC, Assam and a report, vide PE No. 05/2023, was submitted, which indicates that several persons, namely, Dandinath Missong, Dimbeswar Mipun, Memsura Missong, Mona Missong and Chandra Missong of Village Dadhiya, under Chabua P.S. are involved in smuggling timbers illegally from Dibru- Saikhowa National Park.

The report also indicates that several saw mills, namely, Khan Saw Mill, Santosh Kumar Dhelia Saw Mill, Raj Saw Mill, Rupai Saw Mill, Asu Das, Mukti Singh, Ramavater Saw Mill, Das & Das Saw Mill, which are set up on the river bank of Brahmaputra, near Dibrugarh Town, collects the logs from the river and transported it after sawing.

The report further indicates that one Pradip Medhi, Writuraj Buragohain, Raju medhi, Kalyan Sonowal, Mohan Sonowal, Hemanta Moran, Gunin Gogoi, Dharani Gogoi, Sanjoy Sharma and Wajid Khan of Tinsukia district have been running timber business covering Assam Arunachal border area. Further, the report indicates that local Forest Officials of Sadiya, Doom Dooma, Talap, Tinsukia, Dibrugarh, Guijan Range and Saikhowa Wildlife Range and Police Officials are aware about such illegal trade.

5. Mr. Banik, learned counsel for the accused, submits that the accused was arrested by police on 31.08.2023 and since then he has been languishing in jail hazoot. Mr. Banik also submits that the name of the accused finds no mention in the FIR that he is innocent and no way involved with the offence alleged in the FIR. Mr. Banik also submits that the accused is ready to co-operate with the investigating agency and his further custodial

detention may not be required in the interest of investigation and therefore, Mr. Banik contended to allow this petition.

6. Per contra, Mr. P. Borthakur, the learned Additional P.P. has vehemently opposed the petition. Producing the Case Diary before this court, Mr. Borthakur submits that the I.O. has collected sufficient materials to show complicity of the accused with the offence alleged in the FIR and that the I.O. had seized illegal timber logs from the illegal Saw Mill of one co-accused, namely, Subrata Gogoi @ Mithu Gogoi, of which the present accused was the Manager, and several other materials used in illegal timber business from his house. Mr. Borthakur further submits that the investigation is in nascent stage and the co-accused are yet to be arrested and that his further custodial detention is required in the interest of investigation to unearth the conspiracy and to arrest the co-accused. Mr. Borthakur also submits that there is indication in the case diary that due to illegal felling and smuggling of the trees from Dibru Saikhowa Reserve Forest, the entire ecosystem is affected and it will have far reaching consequences upon the environment and also upon the society at large. Mr. Borthakur, therefore, contended to dismiss this petition.

7. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Borthakur, learned Additional P.P.

8. It appears from the case diary that the I.O. has collected sufficient incriminating materials in support of the allegation made in the FIR against the present accused. The case diary indicates that the accused was working as Manager in one of the illegal saw mills; setup on the bank of the river Brahmaputra at Niz Rahmoria village, owned by one co-accused, namely, Subrata Gogoi @ Mithu Gogoi and during investigation, the I.O. had seized 14 numbers of timber logs and several other articles related to timber business such as chain saws and circular saw blades, belts etc. The case diary also indicates that investigation is in nascent stage and if the privilege of bail is extended to the present accused at this stage, it will misdirect the investigation and consequently, it would be difficult to apprehend the co-accused.

9. The case diary further indicates that due to illegal felling and smuggling of the

trees from Dibru Saikhowa Reserve Forest and adjoining forests, the entire ecosystem of the said locality is affected. And indisputably, it will have far reaching consequences upon the environment and consequently, the entire society will suffer. Mr. P. Borthakur, the learned Additional P.P., has rightly pointed this out during hearing, and there is substance in the same.

10. Having considered the aforementioned facts and circumstances, and also having considered the nature and gravity of the offence, and the punishment prescribed for the same, as well as the submission of learned Advocates for both the sides, and also the role played by the accused, this Court is of the considered opinion that further custodial detention of the accused is warranted in the interest of investigation. Accordingly, striking a balance between the individual right of the accused and that of the societal interest, this Court is of the considered view that this is not a fit case, where the privilege of bail can be extended to the applicant.

11. In terms of above, this bail application stands rejected. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant