

GAHC010261672022



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

Case No. : AB/3738/2022

TULON DUTTA
S/O LATE MOHENDRA DUTTA
R/O WARD NO. 3, MOIDOMIA
P.S. NORTH LAKHIMPUR, DIST. LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. K BORUAH

Advocate for the Respondent : PP, ASSAM

Linked Case : Bail Appln./3580/2022

DEBO KRISHNA DUTTA @ DEBO KRISHNA NATH DUTTA
S/O SRI MRIGENDRA NATH DUTTA
R/O WARD NO. 3
PANINDRA SCHOOL ROAD
P.S. NORTH LAKHIMPUR
DIST. LAKHIMPUR
ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP
ASSAM

Advocate for : MR. N N B CHOUDHURY
Advocate for : PP ASSAM appearing for THE STATE OF ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

Date : 03-01-2023

Heard Mr. J.C. Gogoi, learned counsel for the accused-petitioner in B.A. no. 3530/2022; Mr. U. Saikia, learned counsel for the accused-petitioner in B.A. no. 3582/2022; Mr. N.N.B. Choudhury, learned counsel for the accused-petitioner in B.A. no. 3580/2022; Mr. K. Boruah, learned counsel for the petitioner in A.B. no. 3738/2022; and Mr. B. Sarma, learned Additional Public Prosecutor for the respondent State of Assam.

2. As all these applications have arisen out of North Lakhimpur Police Station Case no. 637/2022 [corresponding G.R. Case no. 1335/2022], registered for the offences under Sections 120B/420/468/471/409, Indian Penal Code [IPC], they are taken up together for consideration at the request of the learned counsel for the parties.

3. The First Information Report [FIR] in connection with North Lakhimpur Police Station Case no. 637/2022 has been lodged by [1] Smti. Meenakshi Permey, Circle Officer; [2] Shri Hiren Dutta, Supervisor Kanungo; and [3] Shri Sumon Manchekhun, Lot Mandal of North Lakhimpur Revenue Circle. The 3rd informant, Shri Sumon Manchekhun @ Chow Sumana Man Che Khun is incidentally the accused-petitioner in B.A. no. 3582/2022.

4. As per the FIR, lodged on 04.12.2022, a field mutation case bearing no. LAK/UTT/2022-23/55501/FMUT was registered on the basis of an application made by the accused-petitioner in B.A. no. 3580/2022 viz. Shri Deba Krishna Dutta in respect of a plot of land, claimed to be purchased by him. The allegation in the FIR is to the effect that the mutation in respect of the plot of land had been carried out in favour of the accused-petitioner, Shri Deba Krishna Dutta on the basis of an unregistered sale deed and in the process, the informants were deceived by practicing fraud upon them and by misrepresentation.

5. The accused-petitioner in B.A. no. 3530/2022 viz. Shri Nandan Borah is a Senior Assistant in the office of the Circle Officer, North Lakhimpur Revenue Circle whereas the accused-petitioner in B.A. no. 3582/2022 viz. Chow Sumana Man Che Khun is a Lot Mandal in the office of the Circle Officer, North Lakhimpur Revenue Circle. As indicated above, the accused-petitioner in B.A. no. 3580/2022 viz. Shri Deba Krishna Dutta was the applicant for mutation.

6. From the materials produced in the case diary, it has emerged that the mutation in respect of the concerned plot of land was carried out by mutating the name of the accused-petitioner in B.A. no. 3580/2022 viz. Shri Deba Krishna Dutta on the basis of an unregistered sale deed. The materials go to indicate that in the process of mutation, the involvement of the accused-petitioners in B.A. no. 3530/2022, B.A. no. 3582/2022 and B.A. no. 3580/2022 are *prima facie* be available. In so far as the petitioner in A.B. no. 3738/2022 is concerned, there are no incriminating materials found against him in the act of mutation on the basis of the unregistered sale deed.

7. The accused-petitioner in B.A. no. 3530/2022 is in custody since 05.12.2022 whereas the accused-petitioner in B.A. no. 3582/2022 is in custody since 11.12.2022. The accused-petitioner in B.A. no. 3580/2022 is in custody since 05.12.2022.

8. From the allegations in the FIR and from the materials in the case diary, apart from the involvement of the three accused-petitioners in B.A. no. 3530/2022, B.A. no. 3582/2022 and B.A. no. 3580/2022, the case is based on an unregistered sale deed and other documents, which are already seized.

9. Considering the periods of detention of the accused-petitioners and the progress made in the investigation of the case, this Court is of the view that the further custodial detention of the three accused-petitioners in B.A. no. 3530/2022 viz. Sri Nandan Borah, B.A. no. 3582/2022 viz. Shri Chow Sumana Man Che Khun and B.A. no. 3580/2022 viz. Shri Deba Krishna Dutta appear not necessary for the purpose of carrying out further investigation into the case and if they are released on bail, at this stage of investigation, their such release is

unlikely to bring any adverse effect in the further investigation of the case, provided they continue to extend their assistance and co-operation in the further investigation of the case.

10. Accordingly, it is directed that the accused-petitioner viz. Sri Nandan Borah in B.A. no. 3530/2022, the accused-petitioner viz. Shri Chow Sumana Man Che Khun in B.A. no. 3582/2022 and the accused-petitioner viz. Shri Deba Krishna Dutta in B.A. no. 3580/2022 shall be released on bail on furnishing a bail bond of Rs. 25,000/- each with one suitable surety each of the like amount to the satisfaction of the learned Chief Judicial Magistrate, Lakhimpur, North Lakhimpur, subject to the conditions that :-

[i] the three accused-petitioners in B.A. no. 3530/2022, B.A. no. 3582/2022 and B.A. no. 3580/2022 shall cooperate with the investigation and shall thereafter, make themselves available as and when their presence are required by the I.O. in the investigation of the case;

[ii] the three accused-petitioners in B.A. no. 3530/2022, B.A. no. 3582/2022 and B.A. no. 3580/2022 shall not, directly or indirectly, make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer;

[iii] the three accused-petitioners in B.A. no. 3530/2022, B.A. no. 3582/2022 and B.A. no. 3580/2022 shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;

[iv] the three accused-petitioners in B.A. no. 3530/2022, B.A. no. 3582/2022 and B.A. no. 3580/2022 shall maintain law and order and they shall not commit an offence similar to the offence of which they are accused, or of the commission of which they are suspected; and

[v] the three accused-petitioners in B.A. no. 3530/2022, B.A. no. 3582/2022 and B.A. no. 3580/2022 shall regularly remain present during the trial and co-operate the Court to complete the trial for the above offences, if charge-sheeted in the case.

11. The petitioner viz. Sri Tulon Dutta in A.B. no. 3728/2022 was provided interim protection by an order dated 20.12.2022 with a further direction to him to appear before the

Investigating Officer [I.O.] of the case within 7 [seven] days from 20.12.2022. Mr. Boruah, learned counsel for the petitioner in A.B. no. 3728/2022 has submitted that pursuant to the order dated 20.12.2022, the petitioner viz. Sri Tulon Dutta has appeared before the I.O. of the case and has thereby joined investigation of the case. In view of the fact that the petitioner viz. Sri Tulon Dutta has already joined investigation of the case and there is no *prima facie* material in the case diary indicating his involvement in the act of alleged mutation on the basis of the unregistered sale deed, the interim protection granted to the petitioner viz. Sri Tulon Dutta on 20.12.2022 is made absolute, subject to the condition nos. [ii] & [iii], already indicated in the order dated 20.12.2022.

12. The applications stand disposed of in the aforesaid terms.

JUDGE

Comparing Assistant