

GAHC010000102024



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

Case No. : Bail Appln./6/2024

JAGYESWAR NATH
S/O LATE SABHARAM NATH
KARENG NIWAS NARENGI
FLAT NO. 5A, BLOCK -1, P.O. NARENGI
DIST. KAMRUP (M), ASSAM
PIN-781026

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. I H SAIKIA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

11.01.2024

Heard Mr. I.H. Saikia, learned counsel for the petitioner. Also heard Mr. D. Das, learned Additional Public Prosecutor, Assam.

This application under section 439 of the Code of Criminal Procedure,

1973 has been filed by the petitioner, namely, Jagyeswar Nath, who has been detained behind the bars since 28.12.2023 in connection with Crime Branch P.S. Case No. 08/2023 under Section 120B/420/468/471/409/447 of the Indian Penal Code.

The gist of accusation in this case is that one Bhupen Kumar Das had lodged an FIR before the Commissioner of Police, Guwahati, on 28.11.2023 *inter-alia*, alleging that he is the recorded Pattadar of a plot of land measuring 2 Kathas and 2 Lechas covered by Dag Number 2445 of KP Patta Number 1496 at Panjabari, Bagharbari Main Road, under Satgaon Village in Beltola Mouza of Kamrup (Metro) district, he had inherited the said plot of land after the death of his mother, Late Labanya Bala Das. It is alleged in the FIR that the present petitioner and one Mukshed Ali managed to obtain the sale deed in respect of the said land in connivance with the officials of the Land Record Department without any consent from the first informant.

It is also alleged that the said Mukshed Ali also mutated his name showing the sale deed which was entered into between the present petitioner and the said Mukshed Ali.

It is also stated in the FIR that the mother of the first informant never sold her land to someone and the present petitioner has forged the sale deed on the basis of which he has mutated his name.

Learned counsel for the petitioner has submitted that the allegation levelled in the FIR against him is not true.

It is submitted that the present petitioner has purchased the said land by executing sale deed from the mother of the first informant, namely, Late Labanya Bala Das. Thereafter, due to financial constraint he sold the said land to one Mukshed Ali by registering another sale deed.

It is also submitted by the learned counsel for the petitioner that in this respect a civil suit is pending which has been lodged by the informant, Bhupen Kumar Das against the present petitioner and Mukshed Ali, which is pending before the Court of learned Civil Judge No. 3, Kamrup (M).

It is also submitted that in the said suit the prayer for cancellation of registered sale deed No. 6832/2027 dated 13.12.1997 and registered sale deed No. 2029/2021 dated 04.02.2021 has also been made.

On the other hand, learned Additional Public Prosecutor has produced the case diary of Crime Branch P.S. Case No. 08/2023 and has submitted that there are incriminating materials against the present petitioner in the case diary and the offence alleged has been committed in connivance with the officials of the Land Record Department.

I have considered the submission made by the learned counsel for the petitioner as well as gone through the materials available on record, including the case diary of Crime Branch P.S. Case No. 08/2023. It appears from the record that there was a registered sale deed in favour of the present petitioner executed by the mother of the first informant and a civil suit is also pending between the first informant and the present petitioner in the Court of learned Civil Judge No. 3, Kamrup(M), where the genuineness of the sale deed in question is at issue.

Considering the fact that a civil suit is pending between the parties where the genuineness of the concerned sale deed is the question and also considering the fact that the present petitioner has been detained behind the bars for last 22 days, his further custodial detention does not appear to be necessary if he otherwise co-operates in the investigation.

In view of the above, the above named petitioner is hereby allowed to go

on bail of Rs. 30,000/- with a suitable surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup (M) subject to the conditions that:-

- (i) the petitioner shall not directly or indirectly make any inducement, threat or promise to the informant or to any other persons who may be acquainted with the facts of the case so as to dissuade such person from disclosing such facts before the Investigating Officer or to any Court; and
- (ii) the petitioner shall co-operate in the investigation.

With the above observation, this bail application is hereby disposed of.

Send back the case diary.

JUDGE

Comparing Assistant