

GAHC010003022024



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

Case No. : Bail Appln./55/2024

PRADEEP KUMAR DAS @ PRADIP DAS
S/O LATE MADAN CHANDRA DAS
R/O PNGB ROAD, SHANTIPUR, HILL SIDE, P.S. BHARALUMUKH, DIST.
KAMRUP (METRO), GUWAHATI-781009,
PH. NO. 9395063431

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. B D KONWAR SR. ADV.

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 11.01.2024

Heard Mr. B. D. Konwar, learned senior counsel assisted by Mr. H. Agarwal, learned counsel for the petitioner. Also heard Mr. D. Das, learned Additional Public Prosecutor for the State.

This application under Section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, *Pradeep Kumar Das @ Pradip Das*, who

has been detained behind the bars since 30.12.2023 in connection with Crime Branch P.S. Case No. 11/2021 under Sections 120B/420/409/467/468/471 of the Indian Penal Code.

The gist of accusation in this case is that on 20.09.2021, the Additional Deputy Commissioner, Kamrup(M) had filed an FIR before the Deputy Commissioner of Police Guwahati City, *inter alia*, alleging that certain irregularities pertaining to land transaction were noticed in the circle office and several allegations were made in the said FIR. However, no specific allegations have been made against any specific individual. Though, a list of 95 persons have been annexed along with the said FIR, however, the name of the present petitioner has not been mentioned in the said list. While producing the present petitioner before the Magistrate concerned in the forwarding report furnished by the Investigating Officer showing the ground of arrest, it has been mentioned that the present petitioner has been identified by one of the co-accused, namely, Tapash Choudhury as a member of grabbing of land of other innocent persons by forged land documents.

The learned senior counsel for the petitioner has submitted that the allegations made in the FIR are regarding irregularities pertaining to land transactions are general in nature and no specific allegations has been made against the present petitioner. It is also submitted by learned senior counsel for the petitioner that prior to his arrest in this case, the petitioner was named in an earlier FIR filed by one Dushmanta Medhi who has alleged therein that certain allegations have been made against the present petitioner that he has committed forgery in execution of the sale deed with the grandfather of the said petitioner, namely, Late Birabhadra Medhi.

It is submitted by learned senior counsel for the petitioner that on the basis

of the said FIR, Bharalumukh P.S. Case No. 357/2023 was registered in which case the present petitioner was granted interim anticipatory bail by this Court by order dated 12.12.2023 in AB No. 4165/2023. It is further submitted by learned senior counsel for the petitioner that after getting the interim anticipatory bail, the petitioner received a notice under Section 41A of the Code of Criminal Procedure, 1973 in Bharalumukh P.S. Case No. 357/2023 and when the petitioner appeared before the Investigating Officer in connection with the said case he was arrested in the instant case by the Investigating Officer without affording any opportunity to him.

Learned senior counsel for the petitioner has also submitted that the present petitioner is suffering from ailment including an earlier brain stroke. It is also submitted that the Investigating Officer of Bharalumukh P.S. Case No. 357/2023 had prayed for police remand before the Chief Judicial Magistrate, Kamrup(M), the said prayer was rejected by order dated 30.12.2023 passed in Crime Branch P.S. Case No. 11/2021 wherein it was observed by the learned Chief Judicial Magistrate that the present petitioner was suffering from ailment and his custodial interrogation may not be required in the instant case.

Learned senior counsel for the petitioner has also submitted that as the present petitioner was granted interim protection by this Court in Bharalumukh P.S. Case No. 357/2023, the Investigating Officer of this case had falsely implicated him in the present case which was registered on the basis of general omnibus FIR which was filed in the year 2021. Learned senior counsel has also submitted that out of 95 named accused in this case, he could collect the bail order of 15 nos. of the accused wherein this Court had granted bail to the said accused including the co-accused, namely, Tapash Choudhury on the basis of whose testimony, the present petitioner has been arrested. The co-accused,

namely, Tapash Choudhury was granted bail by this Court on 07.10.2021 and in most of the cases where this Court earlier granted bail to the accused persons, this Court had observed that the allegations in the instant FIR are omnibus in nature without any specific allegation against anyone.

Learned senior counsel for the petitioner has also submitted that a civil suit is also pending before the Court of learned Civil Judge (Senior Division) No. 1, Kamrup(M) wherein the first informant of Bharalumukh P.S. Case No. 357/2023 has filed the title suit wherein claiming relief of cancellation of sale deed which are alleged to have been forged in the said FIR.

On the other hand, learned Additional Public Prosecutor has produced the case diary of Crime Branch P.S. Case No. 11/2021 and has submitted that the co-accused, namely, Tapash Choudhury has implicated the petitioner as having been involved in the offence of forging the sale deed in connivance with the other accused persons involving the Government officials.

I have considered the submissions made by learned counsel for both the parties as well as perused the materials available on record including case diary of Crime Branch P.S. Case No. 11/2021.

The present petitioner has been arrested on the basis of an FIR which was lodged 2 years back wherein most of the named accused were already granted bail mainly on the ground that the FIR in the instant case is omnibus in nature wherein no specific allegations against any specific persons has been made. It also appears that a civil suit is also pending before the Court of learned Civil Judge (Senior Division) Kamrup(M), in between the first informant of Bharalumukh P.S. Case No. 357/2023 and the present petitioner wherein the validity of sale deed in question is at issue. Further, from the case diary, apart

from the testimony of the co-accused, namely, Tapash Choudhury nothing is found against the present petitioner and it is pertinent to mention herein that the said Tapash Choudhury has already been granted bail in this case way back on 07.10.2021.

In view of the above facts, this Court does not find the further custodial detention of the present petitioner to be justified in this case. In view of the above facts, the above named petitioner is hereby allowed to go on bail of Rs.30,000/- (Rupees Thirty Thousand) only with one surety of like amount to the satisfaction of learned Chief Judicial Magistrate, Kamrup(M).

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

Send back the case diary.

JUDGE

Comparing Assistant