

GAHC010004192024



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

Case No. : Bail Appln./87/2024

KHARGESWAR DAS
S/O- LATE BIDYA CHANDRA DAS, RESIDENT OF MAZGAON, NEAR
AUNIATI SATRA, NORTH GUWAHATI, P.S. NORTH GUWAHATI, DIST.-
KAMRUP, ASSAM, PIN- 781030

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PP, ASSAM

Advocate for the Petitioner : MR. R BORUAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

11.01.2024

Heard Mr. R. Boruah, learned counsel for the petitioner. Also heard Mr. R.R. Kaushik, learned Additional Public Prosecutor, Assam.

This application under section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, Khargeswar Das, who has been

shown arrested in connection with Garchuk P.S. Case No. 325/2023 on 28.12.2023, while he was in custody in connection with another similar case which was registered as Geetanagar P.S. Case No. 309/2023.

The gist of accusation in this case is that on 01.12.2023, one Sudipta Goswami had lodged an FIR before the Officer-In-Charge of Garchuk Police Station, *inter-alia*, alleging that her father had purchased a plot of land measuring 1Katha, 10 Lechas covered by Dag No. 100 in K.P. Patta No. 250 of village Betkuchi, Beltola Mouza of Dispur Circle in Kamrup (M) district and in the month of June, 2023, she came to know that some miscreants had taken illegal possession of a plot of land belonging to one Dhanraj Parit, whose plot was in front of the land of the present informant and also it is alleged in the FIR that Mintu Kr. Rabha, Simon Boro and Anil Musahary and Moinul Hoque have conspired and produced fake documents and tried to possess the land of the first informant.

Learned counsel for the petitioner has submitted that the petitioner was the Lat Mandal of Dispur Revenue Circle and he retired from his service on 30.06.2023, after attaining the age of superannuation and he is not involved in the allegation made in the FIR.

It is also submitted by the learned counsel for the petitioner that he is not the main accused in the FIR and he has been initially arrested in connection with similar case, Geetanagar P.S. Case No. 309/2023 and since the date of this initial arrest, he has been behind the bars for last 33 days and in connection with the instant case for last 14 days.

Learned counsel for the petitioner has submitted that considering the fact that the petitioner has already been retired on superannuation and has been detained behind the bars for last 33 days, he may be allowed to go on bail.

On the other hand, Mr. R.R. Kaushik, learned Additional Public Prosecutor has produced the case diary of Garchuk P.S. Case No. 325/2023 and has opposed the grant of bail on the ground that without connivance the participation of the present petitioner, who is a Lat Mandal, the offence alleged in the FIR could not have been committed.

On the other hand, Mr. R.R. Kaushik, learned Additional Public Prosecutor has also submitted that there are sufficient materials in the case diary against the present petitioner

I have considered the submission made by the learned counsel for the parties and perused the materials available on record, including the case diary of Garchuk P.S. Case No. 325/2023. It appears from the record that the present petitioner has been initially arrested in connection with Geetanagar P.S. Case No. 309/2023, where similar nature of allegations was made.

It also appears from the record that he has been detained behind the bars for last 33 days and already two of the co-accused, mainly, Tapash Choudhury and Dipankar Kalita @ Dipankar Jyoti Kalita have been allowed to go on bail by this Court in the instant case.

Considering the above facts, if the petitioner co-operates with the Investigating Officer, this Court is of the considered opinion that his further custodial detention may not be necessary for fair completion of the investigation of Garchuk P.S. Case No. 325/2023.

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 appear regularly before the Investigating Officer

of Garchuk P.S. Case No. 325/2023 every week for the next 4(four) weeks or till the investigation is completed whichever is earlier; and

(ii) 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.

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

Send back the case diary.

JUDGE

Comparing Assistant