

GAHC010004272024



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

Case No. : Bail Appln./78/2024

TAPASH CHOUDHURY
S/O LATE JYOTISH CHOUDHURY
R/O BIDYAMANDIR PATH,
JAGARAN PATH BYE LANE, HOUSE NO. 15, P.S. BASISTHA, P.O. BASISTHA,
GUWAHATI-29, DIST. KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REP.B Y THE PP, GOVT. OF ASSAM

Advocate for the Petitioner : MR. N ALAM

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

11.01.2024

Heard Mr. N. J. Das as well as Mr. K. Jain, 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, Tapash Choudhury, who has been shown as arrested in Garchuk P.S. Case No. 325/2023 under Section 120B/467/468/447 of the Indian Penal Code on 01.12.2023, while he was in detention in connection with Basistha P.S. Case No. 645/2023.

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 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 is not named in the FIR and he has been implicated in this case on the basis of the statement made by one of the accused persons.

It is also submitted by the learned counsel for the petitioner that in a similarly connected case which was registered prior to this case as Basistha P.S. Case No. 645/2023, the petitioner has already been granted bail by the learned Sub-Divisional Judicial Magistrate No. 2 Kamrup on completion of the statutory period of detention in that case.

It is further submitted by the learned counsel for the petitioner that the petitioner has been in detention since the date of his earlier arrest for last 63

days and he has been in detention in this case for 32 days and considering the long period of detention, 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 vehemently opposed the grant of bail to the present petitioner on the ground that the present petitioner is one of the main mastermind of the offence which has been alleged in the FIR and there are incriminating materials in the case diary against the present petitioner.

I have considered the submission made by the learned counsel for the parties as well as perused the materials available on record, including the case diary of Garchuk P.S. Case No. 325/2023. It appears that though the present petitioner is behind the bars for 32 days in connection with this case, however, in total, he has been detained behind the bars for last 63 days from the date of his initial arrest in connection with similarly connected case, i.e. Basistha P.S. Case No. 645/2023. It also appears that in the said case, the petitioner has already been granted bail. It also appears that in the instant case, one of the co-accused, namely, Dipankar Kalita @ Dipankar Jyoti Kalita has already been granted bail, by this Court, by order dated 11.01.2024 in Bail Appln. No. 88/2024. Though there are incriminating materials in the case diary against the present petitioner, considering the fact of long detention of the present petitioner in this case as well as considering the fact that one of the co-accused has already been granted bail by this Court, his further custodial detention may not 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 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