

GAHC010004502024



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

Case No. : Bail Appln./117/2024

NITUL CHANDRA DAS
S/O LT. FATIK DAS R/O BRIBARI P.O. BARIBARI P.S. MUKALMUA DIST
NALBARI ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR P SHARMAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

08.02.2024

Heard Mr. P. Sharmah, learned counsel for the accused and Mr. R.J. Barua, learned Additional Public Prosecutor for the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused namely, **Nitul Chandra Das**, who has been languishing in jail hazot, in connection with the **Basistha P.S. Case No. 739/2023**, under Sections 120[B]/447/420/468/471 of the IPC, for granting bail.

3. The said case has been registered on the basis of one FIR lodged by one Sri

Dipankar Kalita, on 28.11.2023. The essence of allegations made in the FIR is that one Bhabananda Pathak with the help of one Nitul Chandra Das, prepared forged documents and grabbed the land standing in the name of his mother, situated at Sawkuchi Town under Beltola Mouza, vide Dag No. 933 and Patta No. 773.

4. Mr. Sharmah, learned counsel for the accused submits that the accused was shown arrested here in this case on 21.12.2023, and since then he has been languishing in jail hazot for last 50 days. Mr. Sharmah further submits that the accused was also arrested in connection with Cyber P.S. Case No. 12/2023 and Dispur P.S. Case No. 384/2023 and that he has been languishing in jail hazot, in connection with Cyber P.S. Case No. 12/2023, for last 86 days. Mr. Sharmah also submits that as per his instruction the accused is no way involved with the offence alleged in the FIR and that he is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, Mr. Barua, learned Additional Public Prosecutor has produced the case diary before this Court and submits that the IO has collected sufficient incriminating materials against the accused. However, Mr. Barua submits that the IO has achieved substantial progress in the investigation and now the investigation is pending only for collection of report of the handwriting expert from the FSL, Kahilipara, Guwahati.

6. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the Case Diary with the assistance of learned Additional Public Prosecutor.

7. It appears that the accused was shown arrested here in this case on 21.12.2023, and since then he has been languishing in jail hazot for last 50 days. Further, it appears that the IO has collected some incriminating material in support of the allegation made in the FIR, against the accused. However, it appears from the case diary that the IO has achieved substantial progress in the investigation and now the investigation is pending only for collection of report of the handwriting expert from the FSL, Kahilipara, Guwahati.

8. Having considered above and also considering the period of detention and balancing the same with the nature and gravity of the offence alleged in the FIR, this Court is of the view that further custodial detention of the accused may not be warranted here in this case.

9. Accordingly, it is provided that on furnishing a bond of Rs. 50,000/- only, with one surety of like amount to the satisfaction of the learned **Chief Judicial Magistrate, Kamrup [M] at Guwahati**, the accused persons be enlarged on bail.

10. In terms of above, this bail application stands disposed of.

11. The case diary be returned.

JUDGE

Comparing Assistant