

GAHC010004702024



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

Case No. : Bail Appln./88/2024

DIPANKAR KALITA @ DIPANKAR JYOTI KALITA
S/O PONARAM KALITA
R/O HOUSE NO. 35, SWARAJ NAGAR, GNAESHGURI, PS. DISPUR,
GUWAHATI, DIST. KAMRUP (METRO), ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A CHAUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

11.01.2024

Heard Mr. B. K. Mahajan, 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, Dipankar Kalita @ Dipankar Jyoti

Kalita, who has been shown arrested in Gorchuk P.S. Case No. 325/2023 on 28.12.2023, while he was already in custody in connection with Gorchuk P.S. Case No. 324/2023.

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 Gorchuk 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 prior to lodging of the present FIR on 29.11.2023, another FIR was lodged in respect of another plot of land which is situated in front of the plot of land of the present informant and which belongs to one Dhanraj Parit.

It is submitted by the learned counsel for the petitioner that in that case also the present petitioner was arrested and later on, by order dated 28.12.2023 passed in Bail Application 1028/2023, the petitioner, Dipankar Kalita @ Dipankar Jyoti Kalita, was allowed to go on bail by the learned Additional Sessions Judge No. 2, on the ground of his prolonged incarceration as well as on the ground that one of the main co-accused was already granted bail by the High Court.

It is also submitted by the learned counsel for the petitioner that even prior to that case another case was registered against the present petitioner,

which was registered as Cyber P.S. Case No. 12/2023 and in that case also a co-ordinate bench of this Court had granted bail to the present petitioner, by order dated 22.12.2023, passed in Bail Application No. 4656/2023.

Learned counsel for the petitioner has submitted that as the petitioner has already been granted bail in two related cases and as the petitioner has already been detained behind the bars for last 44 days in total and 17 days in the instant case and as his police custody was also refused by the Trial Court, his further custodial detention may not be necessary and hence, on that ground the prayer for bail is made.

On the other hand, Mr. R.R. Kaushik, learned Additional Public Prosecutor has produced the case diary of Gorchuk P.S. Case No. 325/2023 and has submitted that apart from the present petitioner, many other accused persons are involved in this case as the offence of land grabbing is alleged in the FIR has been committed in a concerted manner by a number of accused persons.

Learned Additional Public Prosecutor has opposed the grant of bail to the present petitioner on the ground that there are incriminating materials in the case diary against the present petitioner.

I have considered the submission made by the learned counsel for the petitioner and has perused the materials available on record including the case diary of Gorchuk P.S. Case No. 325/2023. Though the co-accused in the instant case, who also happens to be data entry operator employed on contractual basis in the Deputy Commissioner's Office has been implicated by the present petitioner.

However, considering the fact that the petitioner has been detained behind the bars for last 44 days and in other connected cases, the petitioner has already been granted bail, 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 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