

GAHC010004712024



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

Case No. : Bail Appln./90/2024

NIRANJAN DEKA AND 2 ORS.
SON OF LATE MANORAM DEKA @ NANDARAM DEKA, RESIDENT OF
BUDURUKUCHI, NALBARI, P.S. NALBARI, DISTRICT- NALBARI, ASSAM

2: NAYAN KALITA
SON OF LATE BHABEN KALITA
RESIDENT OF VILLAGE- HUDUMPUR LAHESWARI
P.S. PALASHBARI
DISTRICT- KAMRUP (METRO)
ASSAM

3: DEBASISH BARUA
SON OF AJIT CH. BARUAH
RESIDENT OF HOUSE NO. B-3
BYE LANE NO.2
NAYANPUR
GANESHGURI
P.S. DISPUR
GUWAHATI
DISTRICT- KAMRUP (METRO)
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY P.P., ASSAM

Advocate for the Petitioner : MR. A CHAUDHURY

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

ORDER

Date : 11.01.2024

Heard Mr. B. K. Mahajan, learned counsel for the petitioner. Also heard Mr. R. R. Kaushik, learned Additional Public Prosecutor for the State.

This application under Section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioners, namely, *Niranjan Deka and Nayan Kalita* who have been shown as arrested in Fatasil Ambari Police Case No. 275/2023 on 08.12.2023 and one *Debasish Barua* has been shown as arrested in the aforesaid case on 15.12.2023. All the above named petitioners at the time of being shown as arrested in the instant case were detained in connection with Cyber Police Station Case No. 12/2023 since 29.11.2023 (for last 44 days).

The gist of accusation in this case is that one Shanti Ram Deka had lodged an FIR before the Officer-in-Charge of Fatasil Ambari Police Station, *inter alia*, alleging that Nirmal Kumar Sharma, Tapash Choudhury and Sajall Singh had made a forged Sale Deed No. 7590/78 whereby it has been shown that the land belonging to the father of the first informant has been sold to Nirmal Kumar Sharma. It is also alleged that the said accused persons named in the FIR are making false and fake land records in order to grab and dispose of land of innocent citizens.

The learned counsel for the petitioners has submitted that, in the meanwhile, two of the named accused in the FIR, namely, Nirmal Kumar Sharma and Sajall Singh have already been granted bail by the Court of learned Additional Sessions Judge No. 1, Kamrup(M) in AB No. 393/2023 and AB Case No. 394/2023 respectively.

It is also submitted by learned counsel for the petitioners that the present petitioners have already been granted bail in the Cyber Police Station Case No. 12/2023 by a Co-ordinate Bench of this Court in Bail Application No. 4659/2023 as well as by the Court of learned Additional Sessions Judge No. 2 in Bail Application No. 1026/2023 by order dated 28.12.2023 (in case of the petitioner *Debasish Barua*).

Learned counsel for the petitioner has also submitted that the FIR itself reflects that a civil suit with regard to the alleged forged sale deed is pending before the Court of learned Civil Judge, Kamrup(M).

Learned counsel for the petitioners has also submitted that considering the period of detention, i.e., 44 days in total which has already been undergone by the present petitioners, their further custodial detention is not justified and they may be allowed to go on bail.

On the other hand, the learned Additional Public Prosecutor has produced the case diary of Fatasil Ambari Police Case No. 275/2023 and has submitted that the co-accused in this case have made incriminating statement against the present petitioners.

I have considered the submissions made by learned counsel for the petitioners as well as learned Additional Public Prosecutor and have perused the materials available on record including the case diary of Fatasil Ambari Police Case No. 275/2023.

Considering the fact that the present petitioners have already been granted bail in Cyber Police Station Case No. 12/2023 and two of the named accused in the FIR have already been granted bail and also considering the fact that a civil suit is also pending in respect of the said plot of land as well as alleged four sale

deeds and considering the total period of detention already undergone by the present petitioners, this Court is of the considered opinion that further custodial detention of the present petitioners may not be necessary, if they otherwise cooperate in the investigation of this case.

In view of the above, the above named petitioners are hereby allowed to go on bail of Rs.30,000/- (Rupees Thirty Thousand) only each with one surety of like amount to the satisfaction of learned Chief Judicial Magistrate, Kamrup(M), subject to the following conditions:-

- (i) That the petitioners shall cooperate in the investigation and shall appear before the Investigating Officer as and when so required for the sake of fair investigation;
- (ii) That the petitioners shall not directly or indirectly make any inducement, threat or promise to any other persons who may be acquainted with the facts of the case so as to dissuade such persons from disclosing such facts before the Investigating Officer.

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

JUDGE

Comparing Assistant