

GAHC010009042024



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

Case No. : Bail Appln./165/2024

RANJIT CHOUDHURY
S/O LATE PROMOD CHOUDHURY
R/O HOUSE NO. 25 A, RAJGHAR ROAD, BYLANE NO. 11,
P.S. CHANDMARI
DIST. KAMRUP (METRO), ASSAM,
PIN-781005

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. K N CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

19.01.2024

1. Heard Mr. K.N. Choudhury, learned Senior Counsel, assisted by Mr. N.N.B. Choudhury, learned counsel for the petitioner. Also heard Mr. D. Das, learned Additional Public Prosecutor, Assam.

2. This application under section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, Ranjit Choudhury, who has been shown arrested on 09.01.2024 in connection with Crime Branch P.S. Case No.9/2023 under Section 120(b)/419/420/468/471/409 of the Indian Penal Code. When the present petitioner was shown arrested in the Crime Branch P.S. Case No. 9/2023, he was already detained behind the bars since last 30.12.2023 in connection with Dispur P.S. Case No. 384/2022.

3. The gist of accusation in this case is that on 03.12.2023, one Chandan Das, Inspector of Police of Cyber Police had lodged an FIR before the Deputy Commissioner of the Police, Crime Branch, *inter alia*, alleging that during investigation of Crime Branch P.S. Case No. 12/2023, it came to the notice of the Investigating Officer that on the basis of fake Deed a fake mutation order was passed in Mutation File No. MET/DIS/2022-23/96042/OMUT and it was found that a big racket is involved in executing fake deeds in respect of vacant plots of land in the Guwahati City which also involves the officials of the Sub-Registrar's Office of Guwahati and on the basis of fake land documents fake mutation orders are passed depriving the innocent original owners of the said land. Names of 9 numbers of accused persons were mentioned in the said FIR. However, the name of the present petitioner was not there in the said FIR.

4. On the basis of the said FIR Crime Branch P.S. Case No. 9/2023 was registered under Section 120(b)/419/420/468/471/409 of the Indian Penal Code and during the course of the investigation, it was found that the present petitioner has put his signature in the forged Deed No. 6268/1995 dated 31.12.1995 and the said forged deed was signed by the present petitioner, in spite of the fact that no sale permission was available in respect of the said land. During the investigation, it was found that there is an involvement of a big

racket in executing fake registration of sale deeds in respect of vacant plots of land in Guwahati and the officials of Sub-Registrar's Office, Kamrup (M) were found to be involved in passing orders of mutation without sale permission and NOC from the concerned DC Office thereby depriving the innocent actual land owners.

5. Learned Senior Counsel for the petitioner has submitted that the present petitioner was initially arrested on 30.12.2023 in connection with Dispur P.S. Case No. 384/2022. He has also submitted that on the basis of similar facts and circumstances, several FIRs have been lodged in various police stations in the district of Kamrup (M) and on the basis of one such FIR Cyber P.S. Case No. 12/2023 was registered in which the present petitioner was granted interim protection by this Court in A.B. Application No. 4286/2023.

6. Learned Senior Counsel for the petitioner has also submitted that in another case registered on the basis of similar facts which was registered as Garchuk P.S. Case No. 324/2023, the present petitioner was also granted interim protection by this Court in A.B. Application No. 4287/2023 and after getting pre-arrest bail in the said cases, the petitioner has been co-operating with the Investigating Officer of both the cases.

7. It is further submitted by the learned Senior Counsel for the petitioner that in A.B. Application No. 4287/2023, which was passed in connection with Garchuk P.S. Case No. 324/2023, this Court, by order dated 03.01.2024, made the interim anticipatory bail granted to the present petitioner absolute.

8. It is also submitted by the learned Senior Counsel for the petitioner that the present petitioner was remanded to 09 days of police custody in Dispur P.S. Case No. 384/2022 as well as five days of police remand in the present case, i.e. Crime Branch P.S. Case No. 9/2023 and therefore, he has been

sufficiently interrogated by the Investigating Officer and his further custodial detention may not be necessary for the sake of fair completion of the investigation and hence, it is prayed that he may be allowed to go on bail.

9. Learned Senior Counsel for the petitioner has also submitted that in the instant case, there has been a violation of the guidelines of the Apex Court in "**Uday Chand Vs. Sheikh Mohd. Abdullah, Chief Minister, J&K And Others**", reported in **(1983) 2SCC 417**, wherein it was held that if an order of bail is passed by the Court and if the authorities of the State consider it fit to arrest a released accused person for any other offence, it is the bounden duty of the State authorities to apprise the Court before taking such person into custody.

10. It is also submitted by the learned Senior Counsel for the petitioner that if the present petitioner was required by the State Authorities in connection with Crime Branch P.S. Case No. 9/2023, the State Authorities ought to have informed the Court, while it was considering the Anticipatory Bail application No. 4287/2023 which was made absolute by this Court on 03.01.2024. Similarly, in Anticipatory Bail application No. 4286/2023 also, no such intimation was given to the Court that the present petitioner was also required in the case of Crime Branch P.S. Case No. 9/2023. Hence, learned Senior Counsel for the petitioner has also submitted that there is clear violation of the mandate of the Apex Court in **Uday Chand Vs. Sheikh Mohd. Abdullah, Chief Minister, J&K And Others**(supra).

11. Learned Senior Counsel for the petitioner has also submitted that in the meanwhile, the wife of the present petitioner has been suffering from sophisticated ailments which require her treatment outside the State of Assam in a Super Speciality Hospital and as the present petitioner has been detained

behind the bars, the wife of the petitioner could not be properly medically treated as required in her case.

12. Learned Senior Counsel for the petitioner has also submitted that in the cases where the present petitioner has already been granted anticipatory bail, he has been co-operating with the Investigating Officer and there is no justification for continuing in his detention in the instant case, if he continues to co-operate with the Investigating Officer.

13. On the other hand, learned Additional Public Prosecutor has produced the case diary of Crime Branch P.S. Case No. 9/2023 and has vehemently opposed the grant of bail to the present petitioner on the ground that the present petitioner being an official of the Sub-Registrar's Office has indulged in illegal activities and has been a part of an illegal racket in registering fake land documents.

14. I have considered the submissions made by learned counsel for both the sides and have gone through the materials available on record, including the case diary of Crime Branch P.S. Case No. 9/2023.

15. It appears that the present petitioner has been detained behind the bars since 30.12.2023 and he has been shown arrested in connection with Crime Branch P.S. Case No. 9/2023 on 09.01.2024 and thereafter, he has also been remanded to police custody for five days and therefore, it can be presumed that he has been thoroughly interrogated by the Investigating Officer. It also appears from the record that in the meanwhile, the petitioner has already been granted anticipatory bail in a connected case, i.e. Garchuk P.S. Case No. 324/2023, wherein, by order dated, 03.01.2024, the present petitioner has been granted absolute anticipatory bail. It also appears that he was granted interim protection in A.B. Application No. 4286/2023. It is also pertinent to note that the

present petitioner has also been granted bail in Dispur P.S. Case No. 384/2022, in which he was originally arrested, by an order dated 19.01.2024 passed by this Court in bail application No. 38/2024. It also appears that while the interim anticipatory bail granted to the present petitioner in A.B. Application No. 4287/2023 was made absolute on 03.01.2024, it was not informed to this Court that the present petitioner was also required in connection with Crime Branch P.S. Case No. 9/2023. Therefore, it appears to be a clear violation by the State Authorities of the directions of the Apex Court in ***Uday Chand Vs. Sheikh Mohd. Abdullah, Chief Minister, J&K And Others***(supra), wherein it was held that if after the order of bail is passed by the Court in respect of an accused, the State Authorities consider it fit to arrest a released person for any other offence, it is the bounden duty of the State Authority to apprise the Court before taking such person into custody.

16. Further, on perusal of the case diary of Crime Branch P.S. Case No. 9/2023, it appears that the investigation of this case has fairly progressed and as the petitioner has already been detained in police custody for five days, his further custodial detention does not appear to be necessary for fair completion of the investigation of the Crime Branch P.S. Case No. 9/2023, if he otherwise co-operates in the investigation.

17. In view of above , the present 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 make himself available for interrogation by the Investigating Officer as and when so required by the Investigating Officer for the sake of fair completion of the investigation of Crime Branch P.S. Case No. 9/2023; 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.

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

19. Send back the case diary.

JUDGE

Comparing Assistant