

GAHC010011442024



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

Case No. : Bail Appln./199/2024

PANKAJ BISWAS
S/O UPEN BISWAS
R/O H/NO 09,
WARD NO. 16, SURABHI PATH,
JYOTIKUCHI, DHOPALIA, SAUKUCHI
P.O. SAUKUCHI
P.S. FATASHIL AMBARI
DIST. KAMRUP (M), ASSAM
PIN-781034

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR A TALUKDAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

24.01.2024

Heard Mr. D. Das, 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 persons namely, **Pankaj Biswas**, who has been languishing in jail hazot, in connection with the **Dispur P.S. Case No. 2497/2022**, under Sections 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 Punya Prabha Hazarika, on 25.11.2022. The essence of allegations made in the FIR is that one Debajit Nath has prepared a fake power of Attorney and sold 1 Bigha of land of the informant, being Dag No. 401,400[old]/945[new] and Patta No. 155[old]/233[new], situated at Dwarandha village, Mouza Beltola to M/s Labaji Developers a partnership firm represented by its partner namely, Ajay Kumar Sharma and Pankaj Biswas, on her behalf and she is unaware of said general power of Attorney.

4. Mr. Das, learned counsel for the accused persons submits that the accused persons were arrested on 23.12.2023, and since then he has been languishing in jail hazot for last 33 days. Mr. Das further submits that while causing arrest of the accused, the IO has not complied with the provision of Section 41[A] of the Cr.P.C. and that one of the co-accused namely, Ajay Kumar Sharma has already been granted bail by this Court, vide order dated 18.01.2024, in BA No. 125/2024 and that the accused is the partner of M/s Labaji Developers and they have purchased the plot of land on the bonafide belief and that the present accused has also filed one civil suit, being Title Suit No. 448/2023, before the learned Civil Judge, No. 2, Kamrup [M] at Guwahati. Mr. Das also submits that the accused is innocent and 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 achieved significant process in the investigation and the materials so far collected in the case diary are inconclusive as to whether the accused persons have purchased the aforementioned plot of land knowingly about the fake power of Attorney or not.

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 arrested on 23.12.2023, and since then he has been languishing in jail hazot for last 33 days. Further, it appears that while the while causing arrest of the accused, the IO has not complied with the provision of Section 41[A] of the Cr.P.C., as required by the Hon'ble Supreme Court in the case of **Satender Kumar Antil vs. Central Bureau of Investigation & Anr.**, reported in **2022 Livelaw [SC] 577**. It also appears that one of the co-accused namely, Ajay Kumar Sharma has already been granted bail by this Court, vide order dated 18.01.2024, in BA No. 125/2024.

8. Having considered above and also considering the materials so far collected in the case diary, this Court is of the view that his further custodial detention may not be unwarranted in the interest of investigation.

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.

Comparing Assistant

JUDGE