

GAHC010016092024



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

Case No. : Bail Appln./262/2024

SADOY KR. DEKA
S/O BAIKUNTHA NATH DEKA
HOUSE NO 23, BHASKAR NAGAR, P.S. GEETANAGAR, DISTRICT KAMRUP
METRO, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY PP, ASSAM

Advocate for the Petitioner : MR. B D KONWAR SR. ADV.

Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 09.02.2024

- 1.** Heard Mr. B. D. Konwar, learned senior counsel assisted by Mr. J. Singh, learned counsel for the petitioner. Also heard Mr. B. B. Gogoi, learned Additional Public Prosecutor for the State respondent.
- 2.** This application under section 439 of the Code of Criminal Procedure,

1973 has been filed by the petitioner, namely, Sadoy Kr. Deka, who has been detained behind the bars since 08.12.2023 (for the last 64 days) in connection with Garchuk P.S. Case No. 325/2023 under Section 120B/467/468/447 of the Indian Penal Code.

3. It is pertinent to mention herein that in the instant case, the petitioner has been shown arrested while he was already in custody in Cyber Police Station Case No. 12/2023 since 29.11.2023, hence the petitioner has been practically detained behind the bars for the last 73 days.

4. 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 Garchuk 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 belongs to one Dhanraj Parit, whose plot is in front of the land of the present informant. It is also alleged in the FIR that Mintu Kr. Rabha, Simon Boro and Anil Musahary and Moinul Hoque have conspired and produced fake documents possess the land of the first informant.

5. Learned counsel for the petitioner has submitted that the petitioner is not named in the FIR and he has been implicated in this case on the basis of the statement made by one of the accused persons.

6. It is also submitted by the learned senior counsel for the petitioner that the petitioner has already been granted bail in connection with Cyber Police Station Case No. 12/2023 and Fatasil Ambari P. S. Case No. 275/2023 in which cases he was arrested earlier.

7. It is also submitted by learned senior counsel for the petitioner that

three of the co-accused of the instant case namely, (1) Tapash Choudhury, (2) Dipankar Kalita @ Dipankar Jyoti Kalita, and (3) Khargeswar Das were already granted bail by this Court by order dated 11.01.2024 passed in BA No. 78/2024, BA No. 88/2024 and BA No. 87/2024 respectively.

8. On the other hand, Mr. R.R. Kaushik, learned Additional Public Prosecutor has produced the case diary of Garchuk P.S. Case No. 325/2023 and has vehemently opposed the grant of bail to the present petitioner on the ground that the present petitioner is one of the main mastermind of the offence which has been alleged in the FIR and there are incriminating materials in the case diary against the present petitioner.

9. I have considered the submissions made by the learned counsel for both the parties and have perused the materials available on record, including the case diary of Garchuk P.S. Case No. 325/2023.

10. It appears that though the present petitioner has been behind the bars for last 73 days from the date of his initial arrest in connection with similar case. It also appears that the petitioner has already been granted bail in two other cases.

11. Considering the progress made in the investigation and as well as considering the fact that the petitioner has been detained behind the bars for the last 73 days and three of the co-accused have already been granted bail by this Court, 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/- (Rupees Thirty Thousand Only) with a suitable surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup (M) subject to the following conditions:

- i. That the petitioner shall cooperate in the investigation;
- ii. That the petitioner shall not directly or indirectly make any inducement, threat or promise to any person who may be acquainted with the facts of the case, so as to dissuade such person from disclosing such facts of the case before the Investigating Officer.

12. With the above observations, this bail application is hereby disposed of.

JUDGE

Comparing Assistant