

GAHC010035022024



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

Case No. : Bail Appln./493/2024

NIRHANDRA THAOSEN
SON OF LATE SONOTH THAOSEN RESIDENT OF HOUSE NO. 3, BYE LANE
NO. 3, LNB ROAD, HATIGAON, POLICE STATION - HATIGAON, DISTRICT
KAMRUP (METRO), PIN - 781038, ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. V A CHOWDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

27.02.2024

Heard Mr. A.M. Bora, learned Senior Counsel assisted by Mr. V.A. Chowdhury, 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 namely, **Nirhandra Thaosen**, who has been languishing in jail hazot, in connection with the **Dispur P.S. Case No. 2497/2022**, under Sections 120(B)/409/420/468/471 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 24.11.2023.

4. The essence of allegations made in the FIR is that she has a plot of land situated at Dwarandha Gaon, Panjabari, Guwahati, covering Dag No. 401,400(old)/945(new) and Patta No. 155(old)/233(new) and she purchased the same by executing a registered sale deed and said sale deed is in her custody. Thereafter she came to know that one Debajit Nath has prepared a false Power of Attorney, dated 05.03.2022, being Serial No. 5646 and Deed No. 1139, in her name and sold the aforesaid land to one Ajay Kumar Sharma and Pankaj Biswas of M/S Balaji Developers. The allegation against the present accused is that being the Senior Sub-Registrar, Kamrup (M), he had signed the said forged Power of Attorney.

5. Mr. Bora, learned Senior Counsel for the accused, submits that the accused was arrested on 11.01.2024, and since then he has been languishing in jail hazot for last 48 days. Mr. Bora further submits that some of the co-accused of this case, namely, Debajit Nath; Ajay Kumar Sharma; Pankaj Biswas; and Paresh Kalita have already been enlarged on bail by this court and also by the learned court below. Mr. Bora also submits that in the interest of investigation, further custodial detention of the accused may not be required here in this case and that the accused was arrested in connection with several other cases and in four such cases, he has already been enlarged on bail. Mr. Bora also submits that he is ready to abide by any condition imposed by this Court and also ready to co-operate with the investigating agency and therefore, it is contended to allow the petition.

6. On the other hand, Mr. Barua, learned Additional Public Prosecutor has produced the case diary before this Court and submits that the IO has collected sufficient incriminating materials against the accused. However, Mr. Barua submits

that the IO has examined several witnesses and also seized the relevant documents and that the case is now pending for collection of FSL report and further investigation and therefore, Mr. Baruah has opposed the petition.

7. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition as well as the documents placed on record and also perused the Case Diary with the assistance of learned Additional Public Prosecutor.

8. It appears that the accused was arrested on 11.01.2024, and since then he has been languishing in jail hazot for last 48 days. Further, it appears that the IO has collected some incriminating materials in support of the allegation made in the FIR, against the accused and seized the relevant documents. However, it also appears that the IO has achieved significant progress of the investigation in this case and examined some witnesses and now the case is pending for collection of FSL report and further investigation. It also appears that some of the co-accused have already been enlarged on bail.

9. Having considered above and also considering the period of detention and balancing the same with the nature and gravity of the offence as alleged in the FIR, as well as progress of investigation, this Court is of the view that further custodial detention of the accused may not be warranted in the interest of investigation.

10. Accordingly, this court is inclined to allow this petition. 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 **Nirhandra Thaosen**, who has been languishing in jail hazot, in connection with the **Dispur P.S. Case No. 2497/2022**, under Sections 120(B)/409/420/468/471 of the IPC, shall be enlarged on bail.

- 11.** In terms of above, this bail application stands disposed of.
- 12.** The case diary be returned.

Comparing Assistant

JUDGE