

GAHC010038672024



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

Case No. : Bail Appln./570/2024

GITENDRA TALUKDAR
S/O RAMESH TALUKDAR
R/O JYOTI NAGAR, SANTI PATH,
P.S. CHANDMARI, KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. D SARAF

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 29.02.2024

Heard Mr. D. Saraf, learned counsel for the petitioner. Also heard Ms. A. Begum, learned Additional Public Prosecutor for the State respondent.

2. This is an application under Section 439 of the Code of Criminal Procedure, 1973 praying for grant of bail to the accused/petitioner, who has been languishing in jail hajat in connection with Gorchuk P.S. Case No. 375/2023, under Sections 120B/420/407/468/409 of the Indian Penal Code.

3. Case Diary has been received. Perused the same. Heard both sides.

4. It is submitted by Mr. Saraf, learned counsel for the petitioner, that the present accused/petitioner is innocent and he is no way involved in the offence as alleged in the F.I.R. The present F.I.R. has been lodged before the Gorchuk Police Station alleging fraudulent mutation in the name of one Jakir Hussain on the strength of some fake registered Sale Deed. Initially the accused/petitioner was arrested on 11.01.2024 in connection with Gorchuk P.S. Case No. 235/2022, under Sections 420/419/ 468/471 of the Indian Penal Code and vide order dated 15.02.2024, in B.A. No. 354/2024, he was allowed to go on bail by this Court. Again on 13.01.2024, the Investigating Officer made a prayer before the Court of learned Judicial Magistrate First Class, Kamrup(M) to shown arrest the present accused/petitioner in connection with the present case and the said prayer was accordingly allowed on 18.01.2024 and sent him for police custody for 4 (four) days. After completion of the police remand, he was produced before the learned Court below on 22.01.2024 and thereafter he was remanded to judicial custody. It is further submitted that the accused/petitioner was also arrested in connection with CID P.S. Case No. 07/2021, under Sections 120(B)/420/409/467/471 of the Indian Penal Code, and in the said case, he was granted bail on 08.02.2022 and thereafter he approached this Court by filing a

writ petition, which was numbered as WP(C) No. 5997/2023, wherein this Court interfered the order of suspension dated 22.03.2022 and reinstated the accused/petitioner in his service. Thereafter, he was made scapegoat by the State Authorities by arresting him again in connection with Gorchuk P.S. Case No. 235/2022 and subsequently shown arrest in connection with the present case, i.e. Gorchuk P.S. Case No. 375/2023.

5. It is further submitted by the learned counsel for the petitioner that the accused/petitioner had been discharging his duty with utmost sincerity and dedication without any complaint whatsoever from any corner till 02.02.2022, on which date he was suspended. Further he submitted that the alleged mutation was done in the year 2012-13 when the petitioner was not in the said Revenue Circle and presently he is only entrusted with the duty of updating the official record. That apart, he has no role with the official records nor he is involved in any fraudulent mutation as alleged in the F.I.R. Further he submitted that he was earlier arrested in connection with CID case and during his custody, he was again arrested in connection with Gorchuk P.S. Case No. 235/2022 and shown arrest in connection with present case, i.e. Gorchuk P.S. Case No. 375/2023, without any prior information regarding the pendency of the other cases. Further he submitted that it is the duty of the prosecution side or the State Authority to apprise the Court before taking such person into the custody. Accordingly, he relied on a decision of Hon'ble Apex Court passed in **Uday Chand & Ors. Vs. Sheikh Mohammad Abdullah, Chief Minister, J & K & Ors.**, reported in **(1983) 2 SCC 417**, wherein the Hon'ble Apex Court has deprecated the practice of withholding information from the Court about the requirement to arrest the accused in other cases at the time of consideration of

bail of the said accused.

6. Further, the learned counsel for the petitioner submitted that the entire allegation is based on the documentary evidence and the I.O. has already collected sufficient documents which are in his custody and hence, the question of hampering or tampering with the documentary evidence at this stage also does not arise. Further it is submitted that though the accused/ petitioner is in custody in connection with this case since 18.01.2024, but he was never interrogated by the I.O. after completion of his police remand. However, he is ready and willing to cooperate with the I.O. in the further investigation of this case and will appear before the I.O. as and when he may be required in connection with the further investigation.

7. In this context, Ms. A. Begum, learned Additional Public Prosecutor, has submitted that there are sufficient incriminating materials against the present accused/petitioner showing his direct involvement in the alleged offence and in all the connected cases also, the *modus operandi* is same where the Circle Officer and other staffs and employees of the Office of Sub Registrar are involved. There is also probability of hampering and tampering with the investigation and accordingly the learned Additional Public Prosecutor raised objection in granting bail to the present accused/petitioner.

8. After hearing the submissions made by the learned counsels for both sides, I have also perused the case record as well as the Case Diary. It is seen that the present accused/ petitioner was under police remand for a considerable

period for almost about 4 days and thereafter he was in judicial custody and from the materials available in the Case Diary, it is seen that there was no subsequent prayer made by the I.O. for further interrogation of the present accused/petitioner inside the jail premises after he was brought before the learned Judicial Magistrate First Class on completion of his police remand. In connection with the present case, he is in custody for last 41 days and thus, the I.O. got ample opportunity to interrogate the accused/petitioner keeping him in custody. The Case Diary also reveals that there is sufficient progress in the investigation and most of the relevant documents are also seized in connection with this case. Further it is seen that there are some other cases which were also filed on the same facts and circumstances of this case wherein the allegation of fake registered Sale Deed and mutation was brought by the informant.

9. In view of above, considering the entire circumstances of this case and also considering the view of the Hon'ble Apex Court in the case of **Uday Chand (supra)**, I am of the view that the I.O. has got ample opportunity to interrogate the accused/petitioner keeping him in custody in connection with this case and hence, I find that further custodial interrogation of the accused/petitioner seems to be not necessary here in this case.

10. Accordingly, it is provided that on furnishing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup (M), Guwahati, the accused/petitioner, namely, Shri Gitendra Talukdar, be enlarged on bail, subject

to the following conditions:

- (i) that the petitioner shall fully co-operate with the investigation of the case and shall appear before the Investigating Officer as and when required in connection with the investigation of the aforesaid P.S. Case;
- (ii) that the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer; and
- (iii) that the petitioner shall not leave the jurisdiction of the learned Chief Judicial Magistrate, Kamrup (M), Guwahati, without prior permission.

11. In terms of above, this bail application stands disposed of.

The Case Diary be sent back.

JUDGE

Comparing Assistant