

GAHC010039202024



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

Case No. : Bail Appln./524/2024

NIRHANDRA THAOSEN
S/O LATE SONOTH THAOSEN R/O HOUSE NO. 3, BYE LANE NO. 3, LNB
ROAD, HATIGAON, POLICE STATION HATIGAON, DIST. KAMRUP (METRO),
ASSAM PIN-781038

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

29.02.2024

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 have been languishing in jail hazot, in connection with the **Dispur P.S. Case**

No. 2291/2023, under Sections 120(B)/ 409/ 420/ 468/ 406/ 419 of the IPC, for granting bail.

3. The above noted case has been registered on the basis of an FIR lodged by one Parikhit Kalita, on 11.12.2023. The essence of allegation made in the FIR is that the applicant along with three others namely, Sri Debajit Nath; Imtiaz Ahmed; and Hamen Brahma, proposed to sale a plot of land, measuring 1 katha 15 lechas, covered by Dag No. 110(old)/988(new) of kheraj patta No. 89 of village No. 1 Hengarabari, under Beltola mouza, to the informant showing one registered power of attorney bearing Serial No. 5192, Deed No. 1009 dated 28.02.2022 and fixed the consideration at Rs. 2,22,00,000/- and received a sum of Rs. 75,00,000/- from the informant and his friend and Hrishikesh Das as advanced money and thereafter, on 23.05.2022 the accused persons have received another sum of Rs.10,00,000/- from them. Later on, he came to know that the power of attorney is fake and the person who has been shown as owner of the aforesaid plot of land is not the real owner.

4. Mr. Bora, learned Senior Counsel for the accused submits that the accused was shown arrested here in this case on 06.01.2024, and since then he has been languishing in jail hazot for last 55 days. Mr. Bora further submits that the wife of the accused is suffering from ailments of kidney and recently her kidney was transplanted and that the accused is the only person to look after her. Mr. Bora also submits that one of the co-accused, has already been enlarged on bail, by the learned Additional Sessions Judge, FTC No. 4, Kamrup (M) at Guwahati, vide order dated 09.01.2024, and that the present accused is ready to cooperate with the investigating agency and also ready to abide by any condition imposed by this Court 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 collected sufficient incriminating materials against the accused and therefore, it is contended to dismiss the petition.

6. 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.

7. It appears that the accused was shown arrested here in this case on 06.01.2024, and since then he has been languishing in jail hazot for last 55 days. Further, it appears that the IO has collected some incriminating material in support of the allegation made in the FIR, against the accused, but it also appears that the material part of the investigation is almost over. It also appears that one of the co-accused, has already been enlarged on bail, by the learned Additional Sessions Judge, FTC No. 4, Kamrup (M) at Guwahati, vide order dated 09.01.2024. Further, the Annexure – 11 of the petition reveals that the wife of the accused is suffering from kidney ailments.

8. Having considered above and also considering the period of detention and balancing the same with the offence alleged in the FIR and also the ailments of kidney, in which the wife of the accused is suffering from, this Court is inclined to allow this petition.

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.

JUDGE

Comparing Assistant