

GAHC010041072024



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

Case No. : Bail Appln./542/2024

BHASKAR DEKA
S/O LATE BADAN DEKA,
R/O HOUSE NO. 14, NEW TOWN PATH, ULUBARI, P.S.- PALTAN BAZAR,
GUWAHATI- 781007, DIST.- KAMRUP (METRO), ASSAM.

VERSUS

THE STATE OF ASSAM
REP. BY P.P., ASSAM.

Advocate for the Petitioner : MR. B K MAHAJAN
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

01.03.2024

Heard Mr. B. K. Mahajan, learned counsel appearing for the accused petitioner as well as Mr. D. P. Goswami, learned Addl. P.P., Assam appearing for the State respondent.

By this petition under Section 439 Cr.P.C., the accused-petitioner, namely **Bhaskar Deka**, has prayed for grant of bail in connection with **Vigilance PS Case No. 05/2022 under Section 13(1)(b)/13(2) of the Prevention of Corruption Act, 1988.**

It is submitted by the learned counsel for the petitioner that charge-sheet has been

laid in connection with the alleged offence against the present petitioner. However, it is stated in the charge-sheet that supplementary charge-sheet is required to be filed and investigation has kept open to investigate against the accused person who criminally conspired with the present petitioner. Hence, the investigation against the present petitioner appears to be completed and bail may be granted to the petitioner in any condition.

It is further submitted that after filing of charge-sheet, at this stage, question of hampering of investigation and tempering with the witnesses will not arise.

In support of his submission, learned counsel for the petitioner has cited the following case laws:

- (i) BA 1296/2021 (Pranjal Kakati and another vs State of Assam)
- (ii) BA 2642/2022 (Anarul Islam Vs State of Assam)
- (iii) BA 3472/2022 (Biplab Das vs State of Assam).
- (iv) MCRC No. 892/2022 (The State of Chhattisgarh vs Gurjinder Pal Singh).

On the other hand, Mr. M. Phukan, learned Public Prosecutor has vehemently objected in granting the bail prayer of the petitioner by stating that the allegation against the present petitioner is that he has committed the offence under Section 13(1)(b)/13(2) as such charge-sheet has been submitted. So bail may not be granted to the petitioner.

I have considered the submission of the learned counsel for both the parties.

Admittedly, charge-sheet has been submitted against the present petitioner in connection with the Vigilance PS Case No. 05/2022. It transpires that the investigation against the present petitioner is completed and as such there is no question of hampering the investigation or tempering with the evidence.

In the case of Gurjinder Pal Singh (supra) the Hon'ble Supreme Court has held as follows:

“.....While considering the application for bail, the status of the applicant is not to be considered. As an ordinary citizen is entitled to his rights under the Constitution, equally a high ranking officer cannot be denied the right under the Constitution. In a case of disproportionate assets, most of the evidence is documentary evidence and therefore, there is no question of tampering such an evidence.”

In view of the legal proposition of law as laid down by the Hon'ble Supreme Court as well as the background of the case, this Court is of the opinion that the petitioner deserves to be released on bail.

Accordingly, the petitioner, named above, shall be released on bail, on furnishing bail bond of **Rs.50,000/-** with **one suitable surety** of the like amount to the satisfaction of learned **Special Judge, Assam, Guwahati**.

The direction for bail is further subject to the conditions that the petitioner:

(a) shall not leave the territorial jurisdiction of learned Special Judge, Assam, Guwahati without prior written permission from him/her;

The learned Special Judge is at liberty to impose any other condition(s) as it deems fit and proper at the time of releasing the accused/petitioner on bail to procure his attendance during trial.

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

JUDGE

Comparing Assistant