

GAHC010084922024



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

Case No. : Bail Appln./1225/2024

NITUL CHANDRA DAS
S/O LATE FATIK DAS
R/O BANNIBARI, P.O. BANNIBARI
P.S. MUKALMUA
DIST. NALBARI, ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, GOVT. OF ASSAM

Advocate for the Petitioner : MR P SHARMAH

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

03.05.2024

Heard Mr. P. Sharma, learned counsel of the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor representing the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by the accused/petitioner, namely, Nitul Chandra Das, who has been languishing in jail *hazot* since 19.02.2024 in connection with Gorchuk P.S. Case No. 375/2023, registered under Sections 120B/420/407/468/409 of the Indian Penal Code.

3. The Case Diary has been received and I have perused the same.

4. It is submitted by the learned counsel for the petitioner, Mr. Sharma that one Manoranjan Boro lodged an FIR on 27.12.2023 alleging *inter alia* that one Jakir Hussain had mutated his name fraudulently in the revenue records in a plot of land situated at revenue village Betkuchi under Mouza Beltola on the strength of a forged and fraudulent sale deed with the help of some revenue staff. It is an admitted fact that the present petitioner was working as a junior assistant in the office of Sub-Registrar, Kamrup (M) and he was discharging his duty only as per the instruction of the superior officers. But, he was arrested in connection with this case only on the basis of the statement made by the co-accused, though he was not at all involved in the alleged offence. The petitioner was arrested initially under Cyber P.S. Case No.12/2023 on 24.11.2023 and thereafter, he was again shown arrested in connection with Bhangagarh P.S. Case No.40/2024, wherein, on 18.04.2024, the petitioner was granted bail as both the cases were registered under similar allegations. The accused/petitioner also arrested in connection with the present case, i.e Gorchuk P.S. Case No. 375/2023 on 19.02.2024 and since then, he is in custody in connection with this case.

5. It is further submitted that co-accused Sri Nirhandra Thaosen has already been enlarged on bail vide order dated 29.02.2024 passed by this Court in Bail Appln. No.563/2024. However, he submits that the accused/petitioner is behind the bar since 19.02.2024 and thus, he is in custody for last 74 days as well as he was in police remand for a considerable period and thus, the IO got ample opportunity to interrogate the petitioner in custody. He also submits that the entire case is solely based on documentary evidence and most of the documents were already seized by the police and there is sufficient progress in the investigation of this case. He further submits that the petitioner is ready and willing to co-operate with the investigation of the case and accordingly, considering all this aspect of the case, he prays to enlarge the accused/petitioner on bail.

6. On the other hand, Mr. Borthakur, learned Public Prosecutor, has submitted that there are sufficient incriminating materials against the accused/petitioner. As per the materials available in the case diary, he is the person who managed to collect the forged document which was placed before the Sub-Registrar for signature and thus, he is involved in manufacturing forged land document as well as tampering the official document with the support of some officers and staffs and accordingly, he raised objection in allowing the accused/petitioner to go on bail. However, he submits that there is sufficient progress in the investigation of the case.

7. Considering the submissions of learned counsels for both sides, I have perused the case record as well as the case diary which reveals that there are sufficient incriminating materials available against the accused/petitioner. It is also seen that the petitioner was under police remand for a considerable period. Hence, without going on merit and only considering the length of detention undergone by the accused/petitioner i.e. 74 days, I am of the view that the I.O. has got ample opportunity to interrogate the accused/petitioner in the custody and accordingly, further custodial interrogation of the accused/petitioner seems to be not necessary

here in this case. More so, there is substantial progress in the investigation.

8. 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, Nitul Chandra Das, be enlarged on bail, subject to the following conditions:

- (i) that the petitioner shall make himself available for interrogation by the Investigating Officer as and when required;
- (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.

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

JUDGE

Comparing Assistant