

GAHC010093612024



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

Case No. : Bail Appln./1346/2024

TAPAN CHANDRA NATH,
S/O KHANGIDHAR NATH,
R/O - VILL - BAR - NAGAON,
P.O - AULACHOWKA,
P.S - MANGALDAI,
DIST - DARRANG, ASSAM.

VERSUS

THE STATE OF ASSAM
REP.BY THE PP, ASSAM

Advocate for the Petitioner : MR. S D ROY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

17.05.2024

Heard Mr. S.D. Roy, learned counsel for the accused and Mr. K. Baishya, 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, **Sri Tapan Chandra Nath**, who has been languishing in jail hazot, since 28.03.2024, in connection with the **A.C.B. P.S.**

Case No. 31/2024, under Section 120(B) of the IPC and read with Section 7(a) of the Prevention of Corruption Act, for granting bail.

3. It is to be noted here that case has been registered on the basis of one FIR lodged by Ashadullah Faruqi, on 27.03.2024. The essence of allegations made in the FIR is that in connection with selling of a plot of land belonging to his father, by his mother, he lodged a complaint with the Circle Officer, Dalgaon. Thereafter, he had arrived at a compromise with his mother and decided to withdraw the complaint. And to that effect he filed one application before the Circle Officer and then he met with the Head Assistant namely, Bhaskar, who advised him to met one Tapan of the said office and then he met Tapan so as to withdraw the complaint. Then Tapan took him to computer room and demanded a sum of Rs. 5,000/- from him. Thereafter, on 21.03.2024, he again went to Dalgaon Circle Office and he again met Tapan and then he told Tapan that he would able to give only one to two thousand rupees. And then Tapan asked for the money and then he left the office to withdraw the money from ATM and he recorded the conversation between him and Tapan in a audio recording device and thereafter, he handed over the same to the police.

4. Mr. Roy, learned counsel for the accused submits that though the case has been registered under Section 7(a) of the Prevention of Corruption Act, yet, the said Section is not applicable in case of the present accused, since he is not a public servant and in fact he was appointed as RCCC trained person in Dalgaon Revenue Circle for smooth implementation of Mission Basundhara in the Darrang district on 01.10.2021, by the office of the Deputy Commissioner, Darrang Mangaldoi, vide order No. DRKG-13/2021/32-A, for a period of 8 months and that he had already completed his service and he was released from his service on 01.11.2023, by the District Commissioner, Darrang Mangaldoi, vide letter No. DLR-

11015(12)/3/2022-ACC/310. Mr. Roy further submits that he is innocent and no way involved with the offence alleged in the FIR and that he is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, Mr. Baishya, learned Additional Public Prosecutor has produced the case diary before this Court and submits that the I.O. has collected sufficient incriminating materials against the accused and that the investigation is still going on 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 arrested and forwarded to the jail hazot on 28.03.2024, and since then he been languishing in jail hazot for last 51 days. Further, it appears from the record and also from the case diary that he was appointed as RCCC trained person in Dalgaon Revenue Circle for smooth implementation of Mission Basundhara in the Darrang district on 01.10.2021, by the office of the Deputy Commissioner, Darrang Mangaldoi, vide order No. DRKG-13/2021/32-A and he had already completed his service and he was released from his service on 01.11.2023, by the District Commissioner, Darrang Mangaldoi, vide letter No. DLR-11015(12)/3/2022-ACC/310 and as such, it cannot be said that he is a "public servant" within the meaning of Section 2(c) of the P.C. Act.

8. Having considered above and also considering the period of detention and balancing the same with nature and gravity of the offences alleged in the FIR and also in view of the 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.

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 **Special Judge, Assam at Guwahati**, the accused be enlarged on bail.

10. In te,rms of above, this bail application stands disposed of.

11. The case diary be returned.

JUDGE

Comparing Assistant