

GAHC010111402024



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

Case No. : Bail Appln./1614/2024

SAMIR SHARMAH
S/O SRI TERASH SHARMAH
R/O BOWBAZAR, BISWANATH CHARIALI, P.S. BISWANATH CHARIALI,
DIST. BISWANATH, ASSAM, PIN-784176

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. M A SHEIKH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 18.06.2024

- 1.** Heard Mr. M. A. Sheikh, learned counsel for the petitioner. Also heard B. B. Gogoi, learned Additional Public Prosecutor for the State
- 2.** This is an application filed under Section 439 of the Code of Criminal

Procedure, 1973 by the petitioner, namely, Sri Samir Sharmah, who has been detained behind the bars since 07.05.2024 (for last 42 days) in connection with Biswanath Chariali P.S. Case No.102/2024 under Sections 408/420/34 of the Indian Penal Code.

3. The gist of accusation in this case is that one Shri Gopal Dubey of Dubey Steel, Biswanath Chariali, had lodged an FIR before the officer in charge of Biswanath Chariali Police Station, *inter-alia*, alleging that the present petitioner, who is working as an accountant in his firm, M/s Dubey Steel, since last seven years had made GST transaction to the tune of Rs. 6 crores during the financial year 2023-2024 without the knowledge of the proprietor, i.e., the informant, and in an attempt to make earn some extra money.

4. It is also alleged that the petitioner has sold out GST bills against the provisions of the Government Rules.

5. The learned counsel for the petitioner has submitted that the petitioner is only an employee of Dubey Steel and has been performing his official duty and he has denied the allegations levelled against the petitioner in the FIR.

6. The learned counsel for the petitioner has also submitted that the petitioner has already been detained behind the bars for the last 42 days and considering his period of detention, he may be allowed to go on bail.

7. On the other hand, learned Additional Public Prosecutor has produced the case diary of Biswanath Chariali Police Station Case No.102/2024 and has submitted that the Investigating Officer has recorded the statement of the first informant as well as the accused under Section 161 of the Code of Criminal Procedure, 1973 and during the interrogation, the petitioner has admitted that he gave fake GST bill to four persons.

8. The learned Additional Public Prosecutor has opposed the grant of bail to the present petitioner.

9. I have considered the submissions made by learned counsel for the parties as well as various materials available on record.

10. It appears from record that the main allegation against the present petitioner is of indulging in GST transaction in the name of Dubey Steel to the tune of Rs. 6 crores during the financial year 2023-2024 without the knowledge of the proprietor of Dubey Steel.

11. It also appears that the main evidence in this case by its nature would be the documentary evidence and the petitioner has already been detained behind the bars for the last 42 days. Considering the period of detention of the above named petitioner, this Court is of considered opinion that if he cooperates in the investigation, his further custodial detention may not be necessary for fair completion of the investigation of Biswanath Chari P. S. Case No.102/2024.

12. In view of above, the above named petitioner is allowed to go on bail of Rs. 30,000/- (Rupees Thirty Thousand only), with one surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Biswanath Chari P. S. subject to the following conditions:

- i.** That the petitioner shall co-operate in the investigation.
- ii.** That the petitioner shall not directly or indirectly make any inducement, threat or promise to any person who may be acquainted with the facts of the case, so as to dissuade such person from disclosing such facts of the case before the Investigating Officer.

13. With above observation, this bail application is thereby disposed of.

JUDGE

Comparing Assistant