

GAHC010219002023



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

Case No. : AB/3355/2023

NIRHANDRA THAOSEN
S/O- LATE SONOT THAOSEN, DEPUTY REGISTRAR, NAGAON RESIDENT
OF NAYAN PATH, LNB ROAD HATIGAON, GUWAHATI, KAMRUP (M),
ASSAM, PIN- 781038

VERSUS

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

Advocate for the Petitioner : MR. K N CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 21.02.2024

Heard Mr. I.H. Saikia, learned counsel for the applicant. Also heard Mr. P.S. Lahkar, learned Addl. Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with Basistha P.S. Case No. 421/2023, under Sections 120B/419/420/468/471 of the IPC, this application under Section

438 Cr.P.C. has been preferred by the applicant, namely, Nirhandra Thaosen, for grant of pre-arrest bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by Binanda Nath on 05.07.2023. The essence of allegation made in the FIR dated 05.07.2023, is that on 15.03.2023, an Irrevocable General Power of Attorney was registered, vide Sl. No. 8407, Deed No. 1524, before the Sub-Registrar, Kamrup(M), Guwahati, for a plot of land measuring 3 Bighas 3 Kathas 1.09 Lechas, covered by Dag Nos. 2755, 2756, 2757, Patta No. 237, of village 1 No. Maidamgaon, Mouza Beltola, and that M/s Air Transport Corporation is the absolute owner and possessor of the said land, and the same was under the possession of M/s Air Transport Corporation, and that the Deed No. 1524 was not executed by Sudhir Goyal and that his signature and thumb impression were forged and it was fraudulently executed by Divyamala Prakash, in connivance with some miscreants and some staffs of the office of the Sub-Registrar, Kamrup(M) and subsequently, the said deed was cancelled on 06.06.2022, and the signatures in the said deed were forged. And later on, on 03.07.2023, the informant came to know that Divyamala Prakash and her husband Manoj Kumar had taken huge amount of money from some unknown persons for selling the aforesaid plot of land illegally.

4. Mr. Saikia, learned counsel for the applicant submits that the applicant had been granted the privilege of interim pre-arrest bail, vide order dated 29.09.2023 and pursuant to the said order, he has also appeared before the I.O. and his statement has also been recorded and he has been cooperating with the investigating agency, and that he was transferred from Guwahati to Nagaon in the month of July, 2023, he has handed over all the relevant documents to his successor and in support of the same, Mr. Saikia has produced Form No. 63,

containing the signature of the applicant and his successor, and since he has been cooperating with the investigating agency, a contention is being made that the interim order dated 29.09.2023, may be made absolute in the same terms and conditions.

5. On the other hand, Mr. Lahkar, the learned Addl. Public Prosecutor has opposed the application on the ground that the applicant is not producing the T.I. Book before the I.O., and as such, the I.O. could not achieve substantial progress in the investigation of the case and therefore, it is contended to dismiss the application.

6. Having heard the submission of learned Advocates of both sides, I have gone through the application and the documents placed record and also perused the case diary with the assistance of Mr. Lahkar, learned Addl. Public Prosecutor.

7. It appears that the applicant was granted the privilege of interim pre-arrest bail, vide order dated 29.09.2023, and pursuant to the said order, he has appeared before the I.O. and cooperating with the investigating agency. Further, it appears that the I.O. has achieved substantial progress in the investigation of the case.

8. Though, Mr. Lahkar, learned Addl. Public Prosecutor has opposed the application and submits that the applicant has not produced some of the documents before the I.O. concerned, yet the Form No. 63 provided before the Court, reveals that he has handed over all the documents after his transfer from Guwahati to Nagaon in the month of July, 2023.

9. In that view of the matter, this Court is of the view that custodial interrogation of the applicant may not be warranted in the interest of investigation and accordingly, the interim order dated 29.09.2023, is hereby

made absolute in the same terms and conditions.

10. In terms of above, this application stands disposed of.

11. Case diary be returned.

12. A copy of the Form No. 63, which has been produced by Mr. Saikia, learned counsel for the applicant before this Court, is made part of the record.

JUDGE

Comparing Assistant