

GAHC010295142023



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

Case No. : Bail Appln./4706/2023

JAYANTA BARMAN
S/O KANAK BARMAN
R/O PUB BORAGAON GOSAIGAON
P.S. GARCHUK
DIST. KAMRUP (M),
STATE- ASSAM
PH. 9577726468

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR D MEDHI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

11.01.2024

Heard Mr. K. Thakur, learned counsel for the petitioner. Also heard Mr. D. Das, learned Additional Public Prosecutor, Assam.

This application under section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, Jayanta Barman, who has been detained behind the bars since 16.12.2023 (for last 26 days) in connection with Gorchuk P.S. Case No. 355/2023 under Section 120B/467/468/386/427/447 of the Indian Penal Code.

The gist of accusation in this case is that one Nirupom Roy and Dibyajyoti Dutta, on 15.12.2023 had lodged an FIR before the Deputy Commissioner of Police Guwahati West, *inter-alia*, alleging that some unidentified miscreants have occupied the plot of land belonging to the present petitioner.

It is also alleged in the FIR that the first informant came to know that one Purbeswar Boro of Ahomgaon with the help of some land mafias forged the documents showing him as one of the Pattadhar of Dag No. 414 of KP Patta No. 683 of Mouza Beltola under Kamrup(M) District.

Learned counsel for the petitioner has submitted that the present petitioner is not a named accused in the FIR.

It is also submitted that the main allegations levelled in the FIR is against one Sri Purbeswar Boro with whom the present petitioner had entered into an agreement to purchase the land.

Learned counsel for the petitioner has submitted that he has executed the agreement for sale of land with the said Purbeswar Boro on 25.04.2023, on the basis of the copy of Zamabandi which he took out from Integrated Land Record Management System, wherein, said Purbeswar Boro has been shown as the recorded Pattadar.

It is also submitted by the learned counsel for the petitioner that by an order of the Circle Officer on 18.01.2021 in Mutation Case No. MET/DTS/2020-21/2920/OMUT, the name of Sri Purbeswar Boro was recorded as a Pattadar as

successor of the earlier recorded Pattadar namely, Tarun Ram Kochari and Sida Ram Kochari.

Learned counsel for the petitioner has submitted that the present petitioner is a bonafide purchaser of the land and he has already been detained behind the bars for last 26 days and considering the period of detention, he may be allowed to go on bail.

On the other hand, learned Additional Public Prosecutor has produced the case diary of Gorchuk P.S. Case No. 355/2023 and has vehemently opposed the grant of bail to the present petitioner on the ground that the main accused, i.e. Purbeswar Boro in his statement made under Section 161 of the Code of Criminal Procedure, 1973 has implicated the name of the present petitioner that it is on his instigation, he agreed to get involved showing his name as one of the recorded Pattadar of the said land.

Learned Additional Public Prosecutor has submitted that the offence alleged in the FIR also involves the role of other officials of Land Record Department of the Government and custodial detention of the present petitioner would be necessary.

I have considered the submission made by the learned counsel for the parties as well as I have gone through the materials available on record, including the case diary of Garchuk P.S. Case No. 355/2023. It appears from the record that apart from the statement of the co-accused i.e. Purbeswar Boro, who has implicated the present petitioner, nothing much is available against the present petitioner on record. Moreover, from the copy of the Zamabandi furnished by the learned counsel for the petitioner also appears that the name of the co-accused Purbeswar Boro, with whom the present petitioner has entered into an agreement for sale of the land is there in the said Zamabandi as

one of the Pattadar. Hence, the plea of the petitioner that he is a bonafide purchaser may not be ruled out at this stage.

Considering the entire aspects of this case as well as the fact that the petitioner has been detained behind the bars for last 26 days, this Court is of the considered opinion that if the petitioner co-operates with the Investigating Officer, his further custodial detention may not be necessary.

In view of the above, the above named petitioner is hereby allowed to go on bail of Rs. 30,000/- with a suitable surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup (M) subject to the conditions that:-

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

With the above observation, this bail application is hereby disposed of.

Send back the case diary.

JUDGE

Comparing Assistant