

GAHC010015982024



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

Case No. : Bail Appln./238/2024

PANKAJ DAS
R/O- KHARGULI, UZAN BAZAR, BORTHAKUR CLINIC ROAD,P. S. LATASIL,
DISTRICT KAMRUP METRO, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. S M MOLLAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

16.02.2024

Heard Mr. S.M. Mollah, learned counsel for the accused and also heard Ms. A. Begum, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application, under section 439 Cr.P.C. is preferred by accused, namely, Pankaj Das, who has been languishing in jail hazot since 29.11.2023, in connection with Cyber

P.S. Case No.12/2023, under Section 120(B)/419/420 IPC, read with Section 66(C)/66(D) of the Information Technology Act and added Section 409/468/471 IPC, for grant of bail.

3. It is to be noted here that the above noted case has been registered on the basis of an FIR lodged by one Papu Gogoi, ACS, Circle Officer, Dispur Revenue Circle, on 02.11.2023. The essence of allegation made in the aforesaid FIR is that it has come to the notice of the informant that a mutation order was passed online in Dharitree Portal on 05.10.2023 and Case No.MET/DIS/2022-23/96042/OMUT against a Deed, bearing Sl.No.6268, dated 31.12.1995, wherein no offline case record of any notice was issued or order so passed was found to be available in the office of the informant.

4. Mr. Mollah, learned counsel for the accused, submits that the accused was arrested on 29.11.2023 and since then, he has been languishing in jail hazot for last 80 days. Mr. Mollah further submits that this is the 2nd bail application filed by the accused and the first one, being Bail Appln. No.62/2024 was dismissed by this Court on 09.01.2024 after perusing the case diary. Mr. Mollah further submits that the ground for filing this 2nd bail application is that some of the co-accused have already been enlarged on bail by a coordinate bench of this Court in Bail Appln. No.46/2024, vide order dated 12.01.2024 and that the accused was serving as a Home Guard in the office of the Sub-Registrar, Kamrup, Guwahati and he is not a public servant and Section 409 IPC is not attracted in this case and for other Sections the mandatory period of detention is 60 and he is behind the bar for last 80 days and he is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, Ms. A. Begum, learned Additional Public Prosecutor, Assam, has produced the case diary before this Court and submits that the investigation is still going on and the I.O. has collected some material in support of the allegation made in the FIR and therefore, opposed the petition.

6. Having heard the submission of learned Advocates for both sides, I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of Ms. Begum, learned Additional P.P.

7. It is not in dispute that the accused is behind the bar for last 80 days. Further, it has not been disputed that some of the co-accused have already been enlarged on bail and one such order dated 12.01.2024 in Bail Appln. No.46/2024 is placed before this Court. It is also not in dispute that the accused was serving as a Home Guard in the Office of the Sub-Registrar, Kamrup, Guwahati. Though the I.O. has collected some incriminating materials against the accused, yet having regards to the period of detention and also maintaining parity with the accused person, as held by the Hon'ble Supreme Court in the case of **Satender Kumar Antil Vs. Central Bureau of Investigation & Anr.** reported in **2022 LiveLaw (SC) 577**, this Court is inclined to allow this petition. It is provided that on furnishing a bond of ₹ 50,000/- with one surety of the like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup(M), the accused, namely, Pankaj Das, be enlarged on bail. Case diary be returned.

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

Sd/- Robin Phukan
JUDGE

Comparing Assistant