

GAHC010043332024



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

Case No. : Bail Appln./614/2024

SUKANYA BORA
DAUGHTER OF LATE TAPAN CHANDRA BORA, A RESIDENT OF HOUSE NO.
12/A, SOUTH SARANIA, GANDHI MANDAP ROAD, ULUBARI, PIN- 781007,
P.S. PALTAN BAZAR, DISTRICT- KAMRUP (M), ASSAM

VERSUS

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

Advocate for the Petitioner : MR. S D PURKAYASTHA

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

15.03.2024

Heard Mr. A. Deka, learned counsel for the accused and also heard Mr. M. Phukan, learned Public Prosecutor, Assam, appearing for the State respondent.

2. This application under Section 439 Cr.P.C. is preferred by accused, namely, Sukanya Bora, who has been languishing in jail hazot since 18.01.2024, in connection with Vigilance P.S. Case No.08/2023, under Section 13(1)(b)/13(2) of the Prevention of Corruption Act, for grant of bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by one Anil Bora, Dy. Superintendent of Police, C.M.'s Special Vigilance Cell, Assam, on 05.12.2023.

4. The essence of allegation made in the aforesaid FIR is that during investigation of Vigilance P.S. Case No.02/2023, under Section 120B/409/420/201/468/471 IPC, read with Section 7(a)/13(1)(a)/13(2) of the P.C. Act, read with Section 8 of the Assam Fiscal Responsibility & Budget Management Act, read with Section 41 of the Assam Public Procurement Act, it has been found that she has acquired movable and immovable assets disproportionate to her known source of income to the tune of Rs.2,16,27,526/- during the period from 01.03.2015 to 28.02.2023 in her name or in the name of her family member and during the aforementioned period, her income was found to be Rs.45,00,000/- and except the salary, she has no other source of income and the percentage of disproportionate assets with reference to income was 439.5%.

5. Mr. Deka, learned counsel for the accused submits that the accused was arrested on 18.01.2024 and since then she has been languishing in jail hazot for last 46 days and that she is a public servant and there is no chance of absconding and she is ready to cooperate with the investigating agency and that her father was a retired Central Government employee and the assets which has been taken into account for the period from 01.03.2015 to 28.02.2023 are acquired by her parents and her custodial detention may not be required in the interest of investigation and therefore,

it is contended to allow this petition.

6. On the other hand, Mr. M. Phukan, learned Public Prosecutor, Assam, submits that the I.O. has collected sufficient incriminating materials against the accused and that the investigation is going on and some of the materials are yet to be collected and enlarging the accused on bail at this stage will hamper the investigation. Mr. Phukan further submits that this is an economic offence and economic offences are class apart from the other regular IPC offences and as such, the general principle, applicable in the offences under IPC may not be followed in the cases related to economic offence. Mr. Phukan further submits that the accused is languishing in jail hazot and she has not been cooperating with the investigation and to that effect one GD Entry has been recorded by the I.O. and that she is a very influential lady and that if she is enlarged on bail, she will try to influence the investigation and she has also not deposited her Passport with the I.O. and therefore, Mr. Phukan contended to dismiss the petition.

7. In reply to the submission of learned P.P., Mr. Deka submits that the accused had lost her Passport and she had lodged one complaint also to that effect and also produced a copy of the same before the Court in support of the submission.

8. Having heard the submission of learned Advocates of 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 Mr. Phukan, learned Public Prosecutor.

9. The case diary indicates that the I.O. has collected sufficient incriminating materials in support of the allegations made in the FIR, against the accused. She is a member of Assam Civil Service and she served in different capacities in different places. She was also posted as ADC Development, Kamrup(M) and Circle Officer at Hajo and also worked as Executive Officer, North Guwahati Town Committee. It also

appears that she had acquired disproportion assets to the tune of Rs.1,97,77,526/- and the percentage of disproportion assets acquired for the period from 01.03.2015 to 28.02.2023 is of 439.5%.

10. The case diary also indicates that the investigation is going on and some materials are yet to be collected. Besides she appears to be a very influential lady and on such count, enlarging the accused on bail at this stage will misdirect the investigation.

11. There is no doubt that the case in hand is an economic offence, as it relates to money and its equivalence. Mr. Phukan, learned Public Prosecutor has rightly pointed this out. And by virtue of its nature, it forms a class apart from the regular offences and the same is well settled in catena of decisions of Hon'ble Supreme Court. Reference in this context can be made to a decision in **State of Gujarat v. Mohanlal Jitamalji Porwal**, reported in **(1987) 2 SCC 364**, wherein it has been held that the entire community is aggrieved if the economic offenders who ruin the economy of the State are not brought to book. A murder may be committed in the heat of moment upon passions being aroused. An economic offence is committed with cool calculation and deliberate design with an eye on personal profit regardless of the consequence to the community. A similar approach was taken by the Supreme Court in the case of **P. Chidambaram v. Directorate of Enforcement**, reported in **(2019) 9 SCC 24**, wherein it has been held that economic offences stand as a different class as they affect the economic fabric of the society. A similar view was taken by the Court in **Serious Fraud Investigation Office v. Nittin Johari**, reported in **(2019) 9 SCC 165**, wherein Hon'ble Supreme Court, while dealing with a bail application under Section 212(6)[29] of the Companies Act, 2013, which imposes similar twin conditions for bail, once again reiterated that economic offences constitute a class apart and

need to be viewed seriously and considered as grave offences affecting economy of country as a whole and thereby posing serious threat to the financial health of the country.

12. Under the aforementioned facts and circumstances, this Court is of the view that this is not a fit case where the privilege of bail can be granted to the accused at this stage. Accordingly, the bail application stands dismissed.

13. Case diary be returned.

JUDGE

Comparing Assistant