

GAHC010001052024



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

Case No. : Bail Appln./38/2024

RANJIT CHOUDHURY
S/O LT. PROMOD CHOUDHURY R/O HOUSE NO. 25 A RAJGHAR ROAD
BYLANE NO. 11 P.S. CHANDMARI DIST. KAMRUP METRO ASSAM PIN
781005

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. K N CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 19.01.2024

- 1)** Heard Mr. K. N. Choudhury, learned senior counsel assisted by Mr. N.N.B. Choudhury, learned counsel for the petitioner. Also heard Mr. D. Das, learned Additional Public Prosecutor for the State.
- 2)** This application under section 439 of the Code of Criminal Procedure,

1973 has been filed by the petitioner, namely, Ranjit Choudhury who is detained behind the bars since 30.12.2023 (for last 19 days) in connection with Dispur P. S. Case No. 384/2022 under Sections 341/447/427/120B/468/423/471/34 of the Indian Penal Code with added Section 409 of the Indian Penal Code.

3) The gist of the accusation in this case is that on 17.02.2022, one S. I. Debabrata Mahanta had lodged in an FIR before the In-charge of Odalbakra police outpost under Dispur police station, *inter-alia*, alleging that some unknown persons had closed the government road which leads to the land of the father of the first informant covered by Dag No. 888 under Patta No. 191 of Saukuchi Saher and on that pretext, some unknown persons have tried to take over the possession of the land of the first informant. During the investigation of this case, one Nitul Chandra Das was also arrested and he has made statement that the present petitioner, in lieu of cash amount of Rs. 4000/-, had certified the true copy of the fake deed No. 5171/1992 and it also came to light that the present petitioner is involved in the racket issuing fake land documents.

4) Learned senior counsel for the petitioner has submitted that on similar facts several FIRs were registered at various police stations in the district of Kamrup (M) and on the basis of one such FIR, the Cyber P. S. Case No.12/2023 was registered, wherein the present petitioner had preferred an anticipatory bail application, which was registered as AB No. 4286/2023 and on 22.12.2023, this Court allowed the present petitioner to remain on interim anticipatory bail. Similarly, in another case, which was registered on the basis of similar FIR as Gorchuk P. S. Case No. 324/2023, the present petitioner also preferred an anticipatory bail application, which was registered as Anticipatory Bail Application No. 4287/2023 and on 22.12.2023, this Court granted interim anticipatory bail to the present petitioner.

5) Learned senior counsel for the petitioner has submitted that when this Court granted the privilege of anticipatory bail in AB Case No. 4286/2023 and AB Case No. 4287/2023 on 22.12.2023 to the present petitioner, the prosecution side did not inform the Court that he is also wanted in respect of the Dispur P. S. Case No. 384/2022, which was registered in the year 2022.

6) Learned senior counsel for the petitioner has submitted that the Apex Court in the case of "***Uday Chand and Others Vs. Sheikh Mohammad Abdullah, Chief Minister Kumar, J & K and Others***" reported in **1983 2 SCC 417** has deprecated the practice of withholding information from the Court about the requirement to arrest the accused in other cases, when the petitioner was allowed to go on bail one case. It is submitted by learned senior counsel for the petitioner that it was the bounden duty of the prosecution side or the State Authority to apprise the Court before taking such person into custody. This also submitted by the learned senior counsel for the petitioner that in the instant case the arrest of the present petitioner in Dispur P. S. Case No. 384/2022 has been made in contravention to the observations made by the Apex Court in the case of ***Uday Chand and Others Vs. Sheikh Mohammad Abdullah (Supra)***.

7) Learned senior counsel for the petitioner has submitted that the present petitioner was also remanded to police custody in this case and he has been thoroughly interrogated and considering the period of detention undergone by the present petitioner, he may be allowed to go on bail as the allegations levelled against the present petitioner are entirely based on documentary evidence, and all documents have already been seized by the Investigating Officer, and the present petitioner is not in a position to tamper with the said document, and as such, his custodial detention may not be required, therefore,

the learned senior counsel has prayed for allowing him to go on bail.

8) Learned Additional Public Prosecutor has produced the case diary of Dispur P. S. Case No. 384/2022 and has vehemently opposed the grant of bail to the present petitioner on the ground that there are incriminating materials against the present petitioner in the case diary and that the petitioner being a Sub-Registrar and holding an official position, knowingly certified true copy of a fake deed after taking money for the same.

9) I have considered the submissions made by learned counsel for both the sides and perused the materials available on the record, including the case diary of Dispur P. S. Case No. 384/2022.

10) It appears that in similarly situated cases, the petitioner was granted the privilege of anticipatory bail by this Court.

11) It also appears that in the meanwhile, the Investigating Officer has seized relevant documents and has also recorded the statements of witnesses and the present petitioner under Section 161 of the Code of Criminal Procedure, 1973.

12) It also appears that the petitioner has also been remanded to police custody for the sake of his interrogation for nine (9) days in this case and there also appears to be a violation of the directions of the Apex Court made in ***Uday Chand and Others Vs. Sheikh Mohammad Abdullah (Supra)***, wherein the Apex Court has deprecated the practice of withholding the information from the Court about the requirement to arrest the accused in other cases at the time of consideration of bail of the said accused.

13) In view of the fact that the petitioner has been detained behind the bars for the last 19 days, out of which he was also in police custody for nine (9) days and considering the progress made in the investigation and the fact that

the Investigating Officer has already recorded the statements of relevant witnesses as well as the present petitioner, this Court is of considered opinion that his further custodial detention does not appear to be necessary for the sake of fair completion of investigation in Dispur P. S. Case No. 384/2022.

14) In view of above, the petitioner, Ranjit Choudhury, is allowed to go on bail of Rs. 30,000/- (Rupees Thirty Thousand only) with one surety of like amount, subject to the satisfaction of learned Chief Judicial Magistrate, Kamrup (Metro) with following conditions that:

i. The petitioner shall make himself available for interrogation in this case as and when so required by the Investigating Officer for fair completion of the investigation of Dispur P. S. Case No. 384/2022;

ii. The petitioner shall not directly or indirectly make any inducement, threat or promise to any person who may be acquainted with the facts of this case so as to dissuade such person from disclosing such facts to the Investigating Officer.

15) With the above observation, this bail application is accordingly disposed of.

JUDGE

Comparing Assistant