

GAHC010004522024



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

Case No. : Bail Appln./115/2024

NITUL CHANDRA DAS
S/O LT. FATIK DAS R/O BRIBARI P.O. BARIBARI P.S. MUKALMUA DIST
NALBARI ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR P SHARMAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

08.02.2024

Heard Mr. P. Sharmah, learned counsel for the accused and also heard Mr. R.J. Baruah, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application under Section 439 Cr.P.C. is preferred by accused, namely, Nitul Chandra Das, who has been languishing in jail hazot since 24.12.2023, in connection with

Dispur P.S. Case No.384/2022 under Section 341/447/427/34 IPC and added Section 120(B)/468/423/471 IPC and added Section 409 IPC, 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 Debabrata Mahanta on 17.02.2022. The essence of allegation made in the aforesaid FIR is that he has a plot of land registered in the name of his father at Sawkuchi, Guwahati, bearing Dag No.888, Patta No.191 and a road leading to the said plot of land has been closed by some unknown person and taking that chance some unknown persons have filled up the said plot of land and trying to grab the same.

4. Mr. Sharmah, learned counsel for the accused submits that the accused has been shown arrested in this case on 24.12.2023 and since then he has been languishing in jail hazot. Mr. Sharmah further submits that the accused was earlier arrested in connection with Cyber P.S. Case No.12/2023, under Section 120(B)/419/420 IPC, read with Section 66C/66D of the I.T. Act and added Section 409/468/471 IPC. Mr. Sharmah further submits that he is not on merit of the case, but he is on the length of detention of the accused and that in view of his detention for 47 days his further custodial detention may not be required in the interest of investigation and therefore, Mr. Sharmah contended that the accused may be enlarged on bail.

5. On the other hand, Mr. R.J. Baruah, learned Additional Public Prosecutor, Assam, has produced the case diary before this Court and submits that the I.O. has collected sufficient incriminating materials against the accused and the investigation is going on and therefore, it is contended to dismiss the same.

6. 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. Baruah, learned Additional P.P.

7. It appears from the case diary that the I.O. has collected sufficient incriminating materials in support of the allegation made in the FIR. Though the learned counsel for the

accused submits that the accused is behind the bar for last 47 days and his custody detention may not be required in the interest of investigation, yet, the case diary indicates that the investigation is still going on and some of the co-accused are yet to be arrested and the entire aspect of conspiracy is yet to be unearthed and therefore, his custodial detention seems to be warranted here in this case and accordingly, the petition stands dismissed.

8. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant