

GAHC010034152023



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

Case No. : AB/510/2023

MAMON BARUAH
DAUGHTER OF LT. ABANI KANTA BARUAH, RESIDENT OF HOUSE NO. 113,
BELTOLA TRIPURA ROAD, P.O. BELTOLA, P.S- BASISTHA, GUWAHATI-
781029, DISTRICT- KAMRUP (M), ASSAM.

VERSUS

THE STATE OF ASSAM
REPRESENTED BY PP, ASSAM

Advocate for the Petitioner : MR. K R PATGIRI

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 16.03.2023

Heard Mr. K. R. Patgiri, learned counsel for the petitioner. Also heard Mr. K. K. Das, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 438 of the Code of Criminal Procedure, 1973, praying for grant of pre-arrest bail to the accused/petitioner, who is apprehending arrest in connection with Khetri P.S. Case No. 151/2020, under Sections 420/468 of the Indian Penal Code.

Case Diary has been received and I have perused the same.

It is submitted by the learned counsel for the petitioner, Mr. K. R. Patgiri, that prior to filing of the instant F.I.R., the petitioner was arrested in connection with Khetri P.S. Case No. 131/2020, under Sections 420/406/294/506/34 of the Indian Penal Code, on 11.08.2022, which was lodged by the buyers of the land, namely, Dr. Prasanta Buragohain and Mrs. Mallika Knowar Buragohain. However, the petitioner was released on bail by this Court vide order dated 29.09.2022, in B.A. No. 2432/2022, after 50 days in judicial custody. The present F.I.R. has been lodged for the same disputed land and for the same cause of action by one Arup Rahang, who is stated to be the land owner. It is further submitted that as the petitioner was in custody for the earlier case for about 50 days and hence, the custodial interrogation in the present case is not at all necessary and accordingly, it is prayed to extend the privilege of pre-arrest bail for the present

accused/petitioner. Further, the accused/ petitioner will appear before the I.O. and will co-operate in the further investigation of this case if he is granted with the privilege of pre-arrest bail.

In this context, the learned Additional Public Prosecutor, Mr. K. K. Das, has submitted that there is sufficient incriminating materials against the present accused/petitioner and during investigation, it is learnt from the co-accused, namely, Tarun Basumatary & Nitul Das, that the present accused/petitioner prepared the fake land documents, Power of Attorney and Sale Deed of the disputed land by putting fake signatures of Arup Rahang, Dipak Rahang and Montu Rahang for sale of 7 Bighas of lands to another person and thus cheated large amount of money. Further it is submitted by the learned Additional Public Prosecutor that the present accused/petitioner prepared all the fake documents etc. on his own laptop, which was used to cheat other persons or making forged documents. It is a fact that the earlier case was lodged for the same disputed land by the purchaser of the land and subsequently, the present F.I.R. has been lodged by the land owners with the allegation that on the basis of fake Power of Attorney or Sale Deed, they have executed the Sale Deed and sold the land to other persons and thus misappropriated huge amount of money.

After hearing the submissions of learned counsels for both sides and also considering the materials available in the Case Diary as well as the bail objection filed by the I.O., I find that custodial interrogation of the present accused/petitioner may be necessary in this case to unearth some more facts of the case and also for the interest of just and proper investigation and accordingly, I am of the view that this is not a fit case where the privilege of pre-arrest bail can be extended to the accused/petitioner at this stage and

accordingly, the same stands rejected.

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

Case Diary be returned.

JUDGE

Comparing Assistant