

GAHC010060482023



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

Case No. : AB/1045/2023

MOINUL HOQUE ANSARI
S/O LATE MATIUR RAHMAN
R/OJALUKBARI, SATMILE
P.S. JALUKBARI
PIN-781014
DIST. KAMRUP (METRO), ASSAM
MOBILE NO. 9954283585

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. S ALIM

Advocate for the Respondent : PP, ASSAM

B E F O R E
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

28.04.2023

1. Heard Mr. S. Islam, learned counsel appearing for the petitioner as well as Mr. K.K. Das, learned Addl. P.P. appearing for the State respondent.

2. The petitioner, namely, Moinul Hoque Ansari, has filed this application under Section 438 Cr.P.C with prayer for pre-arrest bail as he is apprehending arrest in connection with BIEO P.S. Case No. 15/2022, under Sections 120(B)/420/406 IPC (G.R. No. 6471/2022).

3. I have considered the submissions at the Bar and I have also perused the case diary.

4. The FIR unfolds that the informant along with Rajen Thakuria, Sahil Hussain, Nur Alam and Rekibul Amin agreed to purchase a plot of land on being induced by Moinul Haque Ansary. The plot of land measures 3 kathas, 10 lechas appertaining to Dag No.1010 and KP No.160 of Revenue village, Paschim Jalukbari Mouza. The consideration was fixed for Rs. 14,50,000.00 and a notary agreement dated 21.04.2021 was executed as part performance and an amount of Rs. 20,50,000 was paid to Sahil Hussain in presence of other accused named in the FIR and an amount of Rs.6,50,000/- was also paid pursuant to another agreement dated 13.06.2021 when the accused persons named in the FIR along with the petitioner agreed to sell 1 katha land from the same scheduled land under the same dag number and patta number. Out of total consideration amount for 4 katha 10 lechas of land, the accused no. 2 acknowledged receipt of an amount of Rs. 27,40,000 by signing on the money receipt dated 14.04.2021, 21.04.2021, 28.05.2021 and 13.06.2021. The transactions took place in the house of present petitioner. The sale permission was not however obtained. The informant later learnt that Rajen Thakuria already had sold the same land to some another person. Thus the present petitioner along with the accused named in the FIR has cheated the informant by hatching up a conspiracy. The informant was also duped by the accused who assured him that the land was free from all encumbrances. The petitioner and the other accused also undertook to bear all consequences, which may arise at the time of the final registration of the land. The learned counsel for the petitioner has prayed for bail on the ground of parity as all the co-accused have been enlarged on bail vide order dated 21.04.2023 in B.A. No 1383/2023 and vide order dated 05.12.2022 in A.B. No. 3597/2022 and vide order dated A.B. No. 3597/2022.

5. The learned Addl. P.P. has raised objections stating that Sahil Hussain has directly incriminated the present petitioner and Sahil Hussain is the main accused named in the FIR.

6. On scrutinising the case diary, it is revealed that the investigation has progressed to a

considerable extend. The present petitioner has appeared before the I/O and his statement has been recorded. It appears that custodial interrogation may not be required.

7. In view of my foregoing discussions, the interim order dated 26.04.2022 is hereby made absolute with the same terms and conditions.

Send back the case diary.

JUDGE

Comparing Assistant