

GAHC010062082023



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

Case No. : AB/1103/2023

DIPAK CHOUDHURY
S/O RAMANI CHOUDHURY
R/O VILL- HENGRABARI
NEAR NABAJYOTI CLUB,
NAMGHAR PATH,
HOUSE NO. 121, P.O. AND P.S. DISUR, DIST. KAMRUP (M), ASSAM, PIN-
781036

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. S K DAS

Advocate for the Respondent : PP, ASSAM

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

09.05.2023

1. Heard Mr. D. Barman, learned counsel appearing for the petitioner as well as Mr. P. Borthakur, learned Addl. P.P. appearing for the State respondent.

2. The petitioner, namely, Dipak Choudhury, has filed this application under Section 438 Cr.P.C with prayer for pre-arrest bail as he is apprehending arrest in connection with Dispur P.S. Case No. 284/2023, corresponding to G.R. Case No.1097/2023, under Sections 420/406 IPC.

3. The allegation against the petitioner is that he induced the informant Momi Sarma to pay an amount of Rs. 7,40,000/- to provide the informant Momi Sarma a flat under the "Purba-Chal Griha Nirman Unnayan Society" for landless people. The petitioner was a member of the "Purba-Chal Griha Nirman Unnayan Society". The petitioner has annexed his bank statement as Annexure-7, which clearly reveals that he has paid of Rs. 5,25,000/- to Mridul Mazumdar @ Mridul Adityam on 17.05.2017. The money was paid to him by Momi Sarma on 08.05.2017.

4. It is submitted that there are incriminating materials against the petitioner. The petitioner has not only duped the informant to part with Rs. 7,20,000/-, but another victim was Bina Rubi Das.

5. It is submitted on behalf of the petitioner that the bank statement clearly reveals that the petitioner has paid Rs. 5,20,000/- to Mridul Mazumdar @ Mridul Adityam. It is also submitted that Rs. 2,00,000/- was also paid in cash to Mridul Mazumdar @ Mridul Adityam. Annexure-6 is the authorization letter by Mridul Mazumdar @ Mridul Adityam that the petitioner can pursue the progress of the "Purba-Chal Griha Nirman Unnayan Society" and so the petitioner was collecting the funds to provide flats to landless people. The petitioner is now returning the money paid by Momi Sarma in monthly instalments of Rs. 5,000/- and he has already paid of Rs. 50,000/- to Ms. Momi Sarma. Annexure-9 is the bank statement

relating to the payment of Rs. 5,000 per month by the petitioner to Ms. Momi Sarma. Annexure-9 is the bank statement relating to the payment of Rs. 5,000/- per month by the petitioner to Ms. Momi Sarma. It is submitted that the FIR was lodged because as the construction of the flats were stopped because the land for flat proposed to be constructed is a water body and flats were not allowed to be constructed over the land and permission was not granted for construction of land over the water body.

6. It is submitted that the main accused Mridul Mazumdar @ Mridul Adityam is absconding. I have considered the submissions that the petitioner has appeared before the I/O and he has co-operated with the investigation. The petitioner is a local resident and he has pledged to co-operate with the investigation. The petitioner is not a flight risk.

7. In view of my foregoing discussions, the interim order dated 24.03.2023 is hereby made absolute.

JUDGE

Comparing Assistant