

GAHC010079822023



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

Case No. : Bail Appln./1364/2023

ENAMUL HUSSAIN
S/O- MR. JAMIR HUSSAIN, R/O- GARIGAON, FANCY PARA (NEAR MAZID),
P.O. GUWAHATI UNIVERSITY, P.S. JALUKBARI, DIST.- KAMRUP (M),
ASSAM- 781013

VERSUS

THE STATE OF ASSAM
REP. BY P.P., ASSAM

Advocate for the Petitioner : MR. K SINGHA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 21-04-2023

Heard Mr. K Singha, learned counsel for the petitioner, Enamul Hussain. Also heard Mr. K.K. Das, learned Addl. PP, appearing for the State.

2. The petitioner has filed an application under section 439

Cr.P.C., with prayer for bail in connection with BI(EO) PS Case No.15/2022 under sections 120(B)/420/406/468/471 IPC.

3. I have considered the submissions at the bar and have 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 Ainul Haque. The plot of land measures 3 katha, 10 lechas apportioning 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 present 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 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 named in the FIR 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 Moinul Haque Ansary. The sale permission was not however obtained. The informant later learnt that Rajen Thakuria had already sold the same plot of land to somebody else earlier. Thus the accused named in the FIR have 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

accused also undertook to bear all consequences, which may arise at the time of the final registration of the land.

5. It is submitted on behalf of the accused that Sahil Hussain had received the consideration of 27,40,000 and it has been admitted by Sahil Hussain. The present accused was the witness and he is not involved in the incident.

6. The learned Addl. PP has raised serious objection stating that the accused Sahil Hussain has admitted that the present petitioner along with Moinul Haque and Mukaddar Khan have also hatched up a conspiracy along with him. On the other hand, it is submitted by the learned counsel for the petitioner that Moinul Haque Ansary was already enlarged on bail vide order dated 22.03.2023 in AB No.1045/2022.

7. The case diary reveals that investigation has progressed to a considerable extent.

8. The petitioner is a local resident and he is behind bars since 27.03.2023.

9. In view of my foregoing discussion, petition is allowed. The petitioner is enlarged on bail of Rs.50,000/- with a suitable surety of the like amount to the satisfaction of the learned CJM, Kamrup (M), under the condition that

- i. That the petitioner will refrain from such activities with which he is alleged;
- ii. The petitioner will cooperate with the remaining part of the investigation.
- iii. The petitioner will not leave the jurisdiction of the

Court without prior permission of the Court till completion of investigation.

10. In terms of the above, the petition stands disposed of.

JUDGE

Comparing Assistant