

GAHC010080722023



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

Case No. : AB/1417/2023

SUDHIR KUMAR SOGANI
S/O SRI LAXMI NARAYA SOGANI
UTSAV GARDEN, FLAT NO. 3A, 3RD FLOOR, ABOVE STEEL HOUSE, S.J.
ROAD, ATHGAON, P.O. ND P.S. BHARALUMUKH, GUWAHATI-781001
DIST. KAMRUP (METRO), ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR A TEWARI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 09-05-2023

- 1.** Heard Mr. A. Tiwari, learned counsel for the petitioner Sudhir Kumar Sogani.
- 2.** By this application under Section 438 of the Code of Criminal Procedure, 1973 [Cr.PC], the petitioner has approached this Court seeking the benefit of pre-arrest bail, apprehending

his arrest, in connection with Panbazar Police Station Case No. 294/2022 under Sections 406/420 IPC

3. Heard Mr. D. Das, learned Addl. P.P. for Respondent State of Assam.

4. I have considered the submissions at the bar with circumspection. I have also perused the Case Diary.

5. The FIR unfolds that the informant agreed to purchase a plot of land admeasuring 2 Kathas 10 Lechas covered by Dag No. 94 and Patta No. 250 situated under the Revenue Village- Ramsahill Grant, Mouza-Ulubari under the Guwahati Revenue Circle. The petitioner then assured the informant that the land was free from encumbrances and a Sale Deed was executed on 25.05.2022 and payment of Rs. 50 lacs was made to the petitioner vide two cheques bearing Nos. 000182 and No. 000186 dated 21.04.2022 and 25.05.2022 respectively but later the informant learnt from the IDBI Bank officials that his land was encumbered and was mortgaged to the bank.

6. It is submitted on behalf of the petitioner that the informant was well aware that the land was mortgaged and an agreement was executed between both the parties for transfer of the same plot of land for a consideration of Rs. 4,35,00,000/-. The agreement is marked as Annexure 2. It is also submitted on behalf of the petitioner that as the land was encumbered the informant agreed to pay the loan amount and so the price was reduced to Rs. 50 lacs. It is submitted that now to the utter shock of the petitioner an FIR has been lodged against him and the petitioner has also preferred a title Suit being T.S. No. 113/2023 and a Criminal Case being Complaint Case No. 85/2023. The Criminal Case is marked as Annexure-6 and the Civil Suit is marked as Annexure-5. It is also submitted on behalf of the petitioner that the Title Suit is filed with a prayer to refund the amount of Rs. 50 lacs to the informant.

7. The learned Addl. P.P. has raised objection stating that there are incriminating materials in the Case Diary against the petitioner. The FIR itself depicts incriminating materials against the petitioner.

8. I have also scrutinised the Case Diary. Indeed there are incriminating materials against the petitioner. The land was indeed encumbered and it was sold to the informant.

8. At this juncture, there appears to be no justified ground to extent the privilege of

anticipatory bail to the petitioner.

Petition is rejected at this stage.

Send back the Case Diary.

JUDGE

Comparing Assistant