

GAHC010081182023



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

Case No. : Bail Appln./1383/2023

SAHIL HUSSAIN
S/O MAKBUL HUSSAIN, R/O HOUSE NO. 20, FANCY PARA, RAHIM CHACHA
CHOWK, P.O.-GARIGAOON, P.S.-JALUKBARI, DIST-KAMRUP (M), ASSAM-
781012

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, 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, Sahil 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** as he is in custody since 27.03.2023.

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 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 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 petitioner 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 already had sold the same land to somebody else earlier. Thus the accused named in the FIR have cheated the informant by hatching out a conspiracy. The informant was also duped by the accused who

assured them 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 petitioner Sahil Hussain that the land owner executed a Power of Attorney in favour of Sahil Hussain to sell his land. When Sahil Hussain learnt that the land owner had sold some part of his land to other purchasers, then he informed the petitioner that the sale deed cannot be executed as the plot of land as already mentioned above has already been transferred to some other purchaser.

6. On the contrary, the learned Addl. PP has raised the argument that the present petitioner Sahil Hussain has forged the Power of Attorney by changing 1 katha to 6 kathas. It has also been submitted that the stamp paper is forged.

7. It is submitted on behalf of the petitioner that the petitioner is willing to repay the money to the informant as the land has already been sold out, but the informant is adamant that the sale deed has to be executed and so the informant has lodged this case against the petitioner.

8. After considering the submissions at the bar with circumspection and after considering the progress of investigation, it appears that further custodial detention may not be required for further investigation. The petitioner is a local resident and he is willing to repay the amount.

9. In view of my foregoing discussions, petition is allowed. The petitioner is enlarged on bail of Rs.30,000/- with a suitable surety of

the like amount to the satisfaction of the learned CJM, Kamrup (M), under the conditions 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