

GAHC010128542023



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

**Case No. : AB/2094/2023**

CHANDAN BORGOHAIN  
S/O- MADHAB BURAGOHAIN, R/O- H.NO. 855, P.O. MOIDOMIA, P.S. NORTH  
LAKHIMPUR IN THE DISTRICT OF NORTH LAKHIMPUR, ASSAM

VERSUS

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

**Advocate for the Petitioner : MR. PRAN BORA**

**Advocate for the Respondent : PP, ASSAM**

**BEFORE**  
**HONOURABLE MR. JUSTICE ROBIN PHUKAN**  
**ORDER**

**21.08.2023**

Heard Mr. P. Bora, learned Senior Counsel assisted by Mr. S.P. Chittawat, learned counsel for the applicant and Mr. K.K. Das, learned Addl. P.P. for the State respondent.

**2.** Apprehending arrest in connection with Hojai PS Case No. 256/2023, under sections 420/406/468/471/34 of the IPC and added Section 120(B)/166/467/474 of the IPC, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicant, namely, Shri Chandan

Borgohain for grant of pre-arrest bail.

**3.** The said case was registered on the basis of an FIR lodged by one Nishant Agarwal on 19.05.2023, to the effect that he entered into an agreement on 18.01.2023, with one lady, accompanied by two persons namely, Jagannath Ray and Md. Zakir Hussain for purchasing a plot of land measuring 6 Bigha at Golaghatia Basti, Hojai for a sum of Rs. 48,55,000/-. The said lady was introduced to him as Mrs. Shiv Kumari by Jagannath Ray and Md. Zakir Hussain and thereafter obtained sale permission for transfer of land from the ADC, Hojai and when he was trying to register the land in his name then he came to know that a fraud was committed upon him and the lady, who was introduced to him as Mrs. Shiv Kumari was pretended by some other person and thereby committed cheating upon him.

**4.** Mr. Bora, learned Senior Counsel for the applicant submits that pursuant to the order of this Court dated 19.06.2023, on two occasions, the applicant appeared before the I.O. and his statement is recorded. Mr. Bora further submits that the applicant was serving as Circle Officer at the relevant point of time and on the basis of the report of the Lat Mandal, he had forwarded the application for sale permission to the D.C., Hojai, who has granted permission and he is no way involved with the alleged offence and that he has been co-operating with the Investigating Agency and therefore, it is contended to make the interim order, dated 19.06.2023, absolute in the same terms and conditions.

**5.** On the other Mr. Das, learned Addl. P.P. vehemently opposed the petition and by producing the case diary before this court, submits that the applicant has not been cooperating with the investigating agency and therefore, it is contended to dismiss the petition.

- 6.** However, on a pointed query of this Court, Mr. Das, learned Addl. P.P. submits that the I.O. has achieved substantial progress in the investigation.
- 7.** Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the Case Diary with the assistance of learned Additional Public Prosecutor.
- 8.** In view of the materials collected so far in the case diary and also in view of the cooperation being extended by the applicant to the investigating agency, his custodial interrogation seems to be unwarranted here in this case, and therefore, this Court is inclined to make the interim order dated 19.06.2023, absolute in the same terms and condition.
- 9.** However, it provided that the applicant shall appear before the I.O. as on when directed.
- 10.** In terms of above this AB stands disposed of.
- 11.** The case diary be returned.

**JUDGE**

**Comparing Assistant**