

GAHC010181702023



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

Case No. : Bail Appln./2906/2023

JAMAL ALI
S/O- AMINUR RAHMAN, VILL.- BHELKAR NO. 2, P.S. HAJO, DIST.
KAMRUP(R), ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. A MANNAF

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

28.08.2023.

Heard Mr. A. Mannaf, learned counsel for the accused. Also heard Mr. R.J. Baruah, learned Additional Public Prosecutor for the State respondent.

This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused, namely, Jamal Ali, who has been languishing in

jail hazot in connection with Hajo P.S. Case No.269/2023, under Sections 420/406/34 of the IPC since 02.08.2023.

It is to be noted here that Hajo P.S. Case No.269/2023 under Sections 420/406/34 of the IPC has been registered on the basis of one F.I.R., lodged by one Prakash Agarwal on 13.04.2023.

The essence of allegation made in the FIR dated 13.04.2023, is that the informant was discussing with one Altaf Hussain of Shillong for purchasing a plot-of-land near Changsari (AIIMS) from one of his relatives and on 12.04.2023, he sent his nephew Dipak Surekha with a sum of Rs. 10,00,000/- (Rupees Ten Lakhs) to proceed to Hajo Office Circle Office along with Altaf Hussain for paying advance money and prepare an agreement letter. But, the accused persons taken his nephew to the alleged owner of the land at Milpara Chatlabari and later on, one Altaf Hussain, Saiful Ali, Jamal Ali, Siraj Ali @ Jonab and one unknown woman identified themselves as the owner of the land and took away the sum of Rs. 10,00,000/- (Rupees Ten Lakhs) in the house of Rahim Ali and fled away without executing any bond or agreement.

The learned counsel for the accused submits that the accused has been languishing in jail hazot since 02.08.2023, and that this Court was pleased to release all other co-accused persons on bail, and therefore, maintaining parity with the said co-accused persons, it is contended to grant bail to the present accused also.

Whereas, Mr. R.J. Baruah, learned Additional Public Prosecutor has vehemently opposed the petition on the grounds that the I.O. has collected sufficient materials in support of the allegations in the FIR and that out of Rs. 10,00,000/- (Rupees Ten Lakhs, only Rs. 1,50,000/- (Rupees One Lakh Fifty

Thousand) has been recovered and the remaining amount is yet to be recovered and investigation is still going on.

Having heard the submissions of learned Advocates of both sides, I have gone through the petition and the documents placed on record and also perused the order of this Court passed in B.A. No. 1747/2023 dated 24.05.2023 by which one Ashad Ali was allowed to go on bail in the order dated 17.05.2023 passed in B.A. No. 1703/2023 by which one Rafikul Islam and Baser Ali are allowed to go on bail and the order dated 24.05.2023, passed in B.A. No. 1702/2023, by which one Saiful Islam has been allowed to go on bail.

It also appears that in the aforementioned order, this Court was pleased to observe that substantial part of the investigation has already been completed.

In view of above and also in view of the materials collected in the case diary, further detention of the applicant, seems to be not warranted herein this case. And accordingly, it is provided that on furnishing a bond of Rs. 30,000/- (Rupees thirty thousand) with one surety of like amount to the satisfaction of the learned JMFC, Hajo, the accused be enlarged on bail.

Case diary be returned.

JUDGE

Comparing Assistant