

GAHC010232592023



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

Case No. : AB/3499/2023

PADMA KANTA SAIKIA
S/O LATE CHENIRAM SAIKIA R/O VILL BARAPATIJA P/S KAMPUR DIST -
NAGAON
ASSAM.

VERSUS

THE STATE OF ASSAM
REPRESENTED BY P.P

Advocate for : MR S DEKA
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

18.10.2023

Heard Mr. S. Deka, learned counsel for the applicant and also heard Mr. P. Borthakur, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application, under section 438 Cr.P.C. is preferred by accused, namely, Padma Kanta Saikia, who has been apprehending arrest, in connection with Kampur P.S. Case No.127/2023, under Section 120(B)/420/468/471 IPC, for grant of pre-arrest bail.

3. It is to be noted here that the above noted case has been registered on the basis of an FIR lodged by one Diganta Kumar Goswami on 21.07.2023. The essence of allegation made in the aforesaid FIR is that his father late Prabhat Ch. Goswami suffered demise on 24.02.2019 leaving him and other legal heirs, but unfortunately five Sale Deeds were registered in the Sub-Registrar Office of Kampur after the death of his father by practicing fraud in the name of his father with the help of scribe, witnesses, identifiers of the Sale Deeds, in respect of the land belonging to his father and the purchasers were – Krishna Laskar, Krishna Kanta Bora and Padma Kanta Saikia.

4. Mr. Deka, learned counsel for the applicant, submits that the applicant is a purchaser of the plot of land and he purchased the same through one middleman, namely, Krishna Laskar and there was an agreement between the applicant and Krishna Laskar and said Krishna Laskar has received a sum of Rs.1,10,000/- being the advance, fixing the purchase of the land at Rs.3,20,000/- and that he was not aware of the seller and believing the middleman he had executed the Said Deed and he is innocent and therefore, it is contended to allow the petition.

5. On the other hand, Mr. P. Borthakur, learned Additional Public Prosecutor has produced the case diary before this Court and submits that the present accused is one of the purchaser of the plot of land and that the I.O. has collected some materials in support of the allegation made in the FIR and therefore, Mr. Borthakur has opposed the petition.

6. Having heard the submission of learned Advocates for both the sides, I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Borthakur, learned Additional P.P.

7. The case diary indicates that the accused has purchased the plot of land through Krishna Laskar and also made some advance payment. Considering the role played by the

applicant and also considering the materials available in the case diary and also considering the submission of learned Advocates of both sides, custodial interrogation of the applicant seems to be not warranted here in this case. And therefore, this Court is inclined to grant the privilege of pre-arrest bail to the applicant.

8. Accordingly, it is provided that in the event of arrest of the applicant, namely, Padma Kanta Saikia, in connection with Kampur P.S. Case No.127/2023, under Section 120(B)/420/468/471 IPC, he shall be released on pre-arrest bail on his executing a bond of Rs.50,000/- with one surety of the like amount to the satisfaction of the arresting authority. The above privilege is, however, subject to the following conditions:-

- (i) The applicant shall make himself available for interrogation by the Investigating Officer as and when required;
- (ii) The applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer; and
- (iii) The applicant shall not leave the jurisdiction of the learned C.J.M., Nagaon, without prior permission.

9. In terms of above, this anticipatory bail application stands disposed of. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant