

GAHC010232592023



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

Case No. : AB/3560/2023

AMIT KUMAR HARI
S/O RAKHAL CHANDRA HARI
R/O H. NO. 2

SWAHID DILIP HUZURI PATH

SARUMOTORIA

P.O. AND P.S. DISPUR
GUWAHATI
ASSAM
PIN-783324

VERSUS

THE STATE OF ASSAM AND ANR
REP. BY ITS PP
ASSAM

2:THE SUPERINTENDENT OF POLICE

OFFICE OF THE SUPERINTENDENT OF POLICE
DIST. NAGAON
ASSAM

Advocate for : MR S BORTHAKUR
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM AND ANR

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN
ORDER

18.10.2023

Heard Mr. S. Dey, 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, Amit Kumar Hari, 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. Dey, learned counsel for the applicant, submits that the applicant was working as Sub-Registrar at Jakhalabandha and that he was directed to attend the Office of Sub-Registrar at Kampur also and he used to visit that office and during his period internet was breakdown and therefore, the alleged sale deed could not be registered in time, but the process of registration was initiated during the lifetime of the deceased person and because of non-availability of internet it could not be uploaded and the process of registration could not be completed and NOC and sale permission was also issued in respect of the said plot of land and that the applicant is no way involved with the offence alleged in the FIR and he is ready to cooperate with the investigating agency 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 I.O. has collected sufficient materials against the applicant and his custodial interrogation is necessary to unearth the conspiracy and therefore, it is contended to dismiss 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. It appears that the applicant was working at the relevant point of time as the Sub-Registrar of Kampur and during his tenure 5 nos. of sale deeds were fraudulently executed while the seller Prabhat Ch. Goswami was no longer alive. Further, it appears that the I.O. has collected sufficient incriminating materials against the applicant. And his custodial interrogation is indispensable to unearth the conspiracy and the investigation is going on and if the applicant is enlarged on pre-arrest bail at this stage then it will misdirect the investigation. And accordingly, the petition stands dismissed.

8. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant