

GAHC010270372023



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

Case No. : Bail Appln./4421/2023

THANGDUOILO HMAR
S/O LT. LALMAI HMAR, VILL-BEITE PUNJI, P.O. AND P.S.-JIRIGHAT, DIST-
CACHAR, ASSAM, PIN-788104

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. I H LASKAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

06.12.2023

Heard Mr. P.K. Deka, learned counsel for the accused and also heard Mr. D. Das, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application, under section 439 Cr.P.C. is preferred by accused, namely,

Thangduoilo Hmar, who has been languishing in jail hazot since 19.11.2023, in connection with Hojai P.S. Case No.390/2023, under Section 420/294/506/34 IPC, for grant of 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 Inam Uddin on 03.09.2023. The essence of allegation made in the aforesaid FIR is that on 09.09.2020, accused Thangduoilo Hmar, Ramsang Hmar and Angbar Hmar came to the house of the informant for selling his Agar garden and entered into an agreement for selling the garden fixing the price at ₹ 9,00,000/- and accordingly, he made payment of a sum of ₹ 1,80,000/- on 07.03.2021. Thereafter, the accused person sold the garden to another person and thereby cheated him.

4. Mr. Deka, learned counsel for the accused, submits that the dispute between the accused and the informant is of civil nature and that the accused is behind the bar for last 19 days and his further custodial detention may not be required in the interest of investigation and therefore, Mr. Deka contended to enlarge the accused on bail.

5. On the other hand, Mr. D. Das, learned Additional Public Prosecutor has opposed the petition and submits that the case diary may be called for.

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.

7. It appears that the accused was arrested on 19.11.2023, and since then he has been languishing in jail hazot. Further, it appears that the dispute is in relation to selling of a Agar garden by the accused in contravention to an agreement, which he had entered into with the informant.

8. Having regards to the submission of learned Advocates of both sides and also having regards to the nature and gravity of the offence, further custodial detention of the accused seems to be not warranted here in this case and accordingly, this Court is inclined to allow this petition. It is provided that on furnishing a bond of ₹ 50,000/- (Rupees Fifty Thousand) with one surety of like amount, to the satisfaction of the learned Chief Judicial Magistrate, Hojai, the accused be enlarged on bail.

9. In terms of above, this petition stands disposed of.

Sd/- *Robin Phuikan*
JUDGE

Comparing Assistant