

GAHC010277612023



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

Case No. : AB/4139/2023

MONESWAR GOWALA,
S/O LATE HARESWAR GOWALA,
R/O JOPOUBARI, P.O. KUWARI,
P.S. BISWANATH CHARIALI,
DIST. BISWANATH, ASSAM-784176.

--VERSUS--

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. P BORDOLOI

Advocate for the Respondent : PP, ASSAM

- B E F O R E -

HON'BLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

13.12.2023

Heard Mr. P. Bordoloi, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor, Assam.

This application under Section 438 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, Sri Moneswar Gowala, who is apprehending his arrest in connection with Biswanath Chariali P.S. Case No.174/2023 (corresponding to G.R. Case No.563/2023) under Section 406/420 of the Indian Penal Code.

The gist of the accusation against the present petitioner is that on 22.11.2023, one Shri Prem Bahadur Chetry had lodged an FIR before the Officer-in-Charge of Biswanath Chariali Police Station that, the present petitioner, in the year 2018, had shown a plot of land to the first informant and introduced the first informant to one Suren Bhumiz who was stated to be the owner of the said plot of land and an agreement for sale was executed between the said owner and the wife of the first informant and a sum of Rs.10,50,000/- was paid to the present petitioner and the first informant was given an impression that the said agreement for sale is in fact a sale deed. However, later on, the informant came to know that the said plot of land is an annual patta land and it was also informed to the informant that the said plot of land has been sold to some other person in the meanwhile.

Learned counsel for the petitioner has submitted that the allegations made against the petitioner in the FIR are not true. It is submitted that in the year 2018, an agreement for sale was executed between the wife of the informant and one Suren Bhumij and the present petitioner was merely a witness to the said agreement and he signed in the said agreement as witness No.2.

Learned counsel for the petitioner has also submitted that the incident alleged happened 6(six) years ago and the petitioner is otherwise ready to co-operate in the investigation.

Considering the fact that the agreement for sale was executed between the wife of the informant and one Suren Bhumij, wherein the first informant had signed as witness No.1 and the present petitioner himself had signed only as witness No.2 and also considering the fact that the alleged incident happened 6(six) years ago and no cause has been shown for delayed lodging of FIR, this Court is of the considered opinion that if the petitioner co-operates in the investigation, his custodial detention may not be necessary for fair completion of the investigation in this case.

Hence, the petitioner, namely, Moneswar Gowala is hereby directed to appear before the Investigating Officer of Biswanath Chariali P.S. Case No.174/2023 and co-

operate in the investigation within 10(ten) days from the date of receipt of this order. If he does so within the stipulated period of time, in the event of arrest in connection with Biswanath Chariali P.S. Case No.174/2023, the petitioner shall be allowed to go on bail of Rs.30,000/- (Rupees thirty thousand) with one surety of the like amount subject to the satisfaction of the arresting authority with the following conditions:-

(i) that the petitioner shall co-operate in the investigation and shall appear before the Investigating Officer as and when so required by the Investigating Officer for the sake of fair investigation.

(ii) that the petitioner shall not directly or indirectly make any inducement, threat or promise to the informant or any other person who may be acquainted with the facts of the case so as to dissuade such person from disclosing such facts before the Investigating Officer or to the Court;

With the above observations and directions, the present anticipatory bail application stands disposed of.

JUDGE

Comparing Assistant