

GAHC010003312024



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

Case No. : Bail Appln./95/2024

MD NURJAMAL HOQUE
S/O LATE JAYNAL ABDIN
R/O KATHBARI, NEAR 2 NO MASJID, BHARALUPAR, P.S. GORCHUK
DIST. KAMRUP (METRO), ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. N UDDIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

01.02.2024

Heard Mr. N. Uddin, learned counsel for the petitioner. Also heard Mr. D. Das, learned Addl. Public Prosecutor, appearing for the State of Assam.

This is an application under Section 439 of the Code of Criminal Procedure, 1973 for granting of regular bail to the accused / petitioner, namely, Md. Nurjamal Hoque, who was arrested on 24.12.2023 in connection with Fatashil Ambari P.S. Case No. 319/2023 registered under Sections

120(B)/468/471/472/447/379/385/34 of the IPC.

The brief case of the prosecution is that the accused petitioner and one Sunirmal Acharjee in connivance with the employee of the concerned Circle Office and Sub-Registrar Office prepared fake documents and fake mutation of the land measuring 3 katha covered by Dag No. 281 (new), 25 (old), Patta No. 385 (new) 41 (old) which stand in the name of the informants younger sister situated at Jyotikuchi under Beltola Mouza.

It is further alleged that in order to destroy the earlier document, the accused have used fake seal stamp. It is further alleged that in association with one Rinku Choudhury, the accused persons have shown their possession of the said land and stolen away the property of the informant.

Mr. N. Uddin, learned counsel for the petitioner submits that the accused petitioner is a businessman by profession and has no criminal records. He further submits that the accused petitioner has not committed the offence alleged and that one Sunirmal Acharjee who is the absolute owner and possessor of the subject plot of land executed an Irrevocable General Power of Attorney on 24.02.2020 in favour of the accused petitioner. Thereafter the accused petitioner by virtue of the said Irrevocable General Power of Attorney has transferred the said plot of land by way of sale with the registered Sale Deed No. 5803 serial no 7484 dated 23.03.2022 to his wife i.e. M/S. Samiran Nessa. He further submits that after execution of the sale deed, the wife of the petitioner applied for mutation of the said plot of land in her name before the concerned authority and the same was granted after following the due process of law. He further submits that a civil suit being Title Suit No. 573/2023 is pending before the learned Court of Civil Judge, Senior Division No. 1, Kamrup

(M) at Guwahati against the subject plot of land.

Mr. D. Das, learned Addl. Public Prosecutor, Assam on the other hand strongly opposes the prayer for bail. He submits on the basis of the materials available on the Case Diary that various documents being original as well as photo copies along with stamp papers, stamp pads and seal were seized from the possession of the accused petitioner from his house. He further submits that there is specific role attributed to the accused petitioner.

I have heard the submissions made at the bar and have perused the materials available on record.

It appears from the materials available on the Case Diary placed before this Court that there are sufficient materials implicating the accused petitioner.

It further reveals that incriminating articles have been seized from the house of the accused petitioner.

The allegations are grave and serious involving fraudulent property transactions. It is imperative to unearth the truth.

The investigation is going on and this Court is of the opinion that at this stage, if the petitioner is granted to go on bail, the same shall hamper the investigation.

Considering the facts and circumstances and the totality of the matter, this bail application stands rejected.

Return the case diary.

JUDGE

Comparing Assistant