

GAHC010006432024



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

Case No. : AB/130/2024

ANIL MUCHAHARY
S/O GANAKTA MUCHAHARY
R/O LALMATI
P.S. BASISTHA,
DIST. KAMRUP (M), ASSAM,
PIN-781029

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. N DUBEY

Advocate for the Respondent : PP, ASSAM

B E F O R E
HON'BLE MR. JUSTICE KAUSHIK GOSWAMI

29.01.2024

Heard Mr. N. Dubey, learned counsel appearing for the petitioner. Also heard Mr. D. Das, learned Addl. P.P., Assam appearing for the State respondent.

2. This is an application under Section 438 of the Code of Criminal Procedure, 1973 for granting anticipatory bail to the petitioner, namely, **Anil Muchahary**, in connection with **Garchuk P.S. Case No. 325/2023** under Sections **120B/467/468/447** of the Indian Penal Code, 1860.

3. The case of the prosecution in brief is that the accused/petitioner along with other co-accused has procured fake documents in connection with the subject land and accused Mintu Kumar Rabha has thereafter, taken possession of the subject land.

4. Mr. Dubey, learned counsel for the petitioner submits that he is not connected with the offence alleged and that the allegation in the FIR are totally false and fabricated. He further submits that the accused/petitioner has no have any criminal antecedent.

5. Mr. D. Das, learned Addl. P.P. on the other hand strongly opposes the prayer for pre-arrest bail. He submits on the basis of the case diary received that there are sufficient materials available on record, indicating the role of the accused/petitioner.

6. I have considered the submissions made at the Bar and I have perused the materials available on record. It appears from the case diary placed before this Court that the accused/petitioner by using his muscle power has helped the

accused Mintu Kr. Rabha to take possession of the subject land on the basis of fake sale deed prepared by them.

7. The allegations made in the FIR are serious and grave involving fraudulent property transactions. It is imperative to unearth the truth for which an investigation needs to be done. Investigation appears to be in the initial stage. Article 21 of the Constitution of India is not an absolute right and is subject to the procedure establish by law. There are materials available on record implicating the accused and as such, a fair and complete investigation is the mandate of law.

8. In view of the above, this Court is not inclined to grant the privilege of pre-arrest to the accused/petitioner at this stage. Accordingly, this anticipatory bail application stands rejected.

9. Return the case diary.

JUDGE

Comparing Assistant