

GAHC010007292024



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

Case No. : Bail Appln./142/2024

SAMSUL HOQUE TALUKDAR
S/O LATE JOBAN ALI TALUKDAR
VILL- NAYAPARA
PART-4

P.S. ABHAYAPURI
DIST. BONGAIGAON
ASSAM

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE PP
ASSAM

Advocate for : MR H R A CHOUDHURY
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

Linked Case No. : Bail Appln./151/2024

ANOWAR HUSSAIN
S/O LATE AJIJUR RAHMAN
R/O VILL- CHEDAMARI WEST
P.S. GOGIGOPA
DIST. BONGAIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MD. I HUSSAIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

23.01.2024

Heard Mr. H.R.A Choudhury, learned senior counsel assisted by Ms. R. Deka, learned counsel for the petitioner and Mr. P. Borthakur, learned Addl. P.P, Assam for the State.

This is an application under Section 439 of the Code of Criminal Procedure, 1973 for bail of the accused petitioner namely Samsul Hoque Talukdar, who is in custody since 23.12.2023.

The brief facts of the prosecution is that accused No. 1 namely one Anowar Hussain induced the informant to sell her land about 2 years back and took her Photograph and Voter I.D Card and PAN Card. It is alleged that the said accused No. 1 through a conspiracy with the petitioner/accused mutated the subject land by showing forged sale deed. Accordingly, a case was registered.

Mr. H.R.A Choudhury, learned senior counsel by placing reliance on FIR dated 09.12.2023 submits before this Court that earlier Karibanu Nessa, who is

the owner of the subject land has filed an Ejahar alleging that her land has been shown to have been sold by one Poribhanu Nessa in favour of the accused petitioner Anowar Hussain.

The learned senior counsel submits that the petitioner is innocent and has been falsely implicated in the instant case. He further submits that the actual facts of the case is that about 2 years back in 2021, the accused No. 1 had submitted an application for mutation of 5 bighas of land at Koreya Pahar village for one Karibanu Nessa (informant) along with the relevant document. The said applicant was present in the land along with the accused No. 1 during field visit by the petitioner and accordingly, the petitioner submitted the report for orders before the concerned Circle Officer. Since the petitioner found the document submitted for mutation of the land in the name of Karibanu Nessa and there was no objection from anybody during field visit, the file was put up before the concerned Circle Officer for necessary orders. The petitioner had never suspected any foul play. However, to his outer surprise, he found out about the lodging of the Ejahar dated 21.12.2023.

The learned senior counsel further submits that in the earlier case, the petitioner was granted bail vide Order dated 21.12.2023 due to non-compliance of Section 41(A) Cr.PC. He further submits that the instant case is based on documentary evidences and in view of the investigations made during his custody since his arrest on 23.12.2023, further custodial interrogation may not be required.

Mr. P. Borthakur, learned Addl. P.P on the other hand strongly opposes the prayer for bail. He submits on the basis of the Case Diary that there are

materials available to implicate the involvement of the petitioner in the offence alleged. He further submits that the petitioner/accused has with connivance with accused No. 1 mutated the subject land on the basis of the manufactured sale deed by using the name of the informant.

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

It appears that in the earlier case lodged by the original owner, the petitioner has been enlarged on bail by the Court of Judicial Magistrate First Class North Salmara, Abhayapuri. It appears that after the accused person in that case including the informant was enlarged on bail, the present FIR has been filed by the informant.

Considering that the Investigating Officer has already seized the documents and investigation has proceeded substantially and considering the length of detention, this Court is inclined to grant bail to the petitioner at this stage.

For the aforesaid reasons, the petitioner namely Samsul Hoque Talukdar is allowed to go on bail of Rs. 30,000/- with one surety of like amount to the satisfaction of SDJM, North Salmara, Abhayapuri, subject to the following conditions:

- (i) That the petitioner shall appear before the learned Committal Court/Trial Court as and when so required by the said Court;

- (ii) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of this case so as to dissuade such person from disclosing such facts to the Court or to the any Police Officer;
- (iii) The petitioner shall cooperate in any further investigation which may be pending in connection with Jugigopha Police Station Case No. 299/2023 while he is on bail;
- (iv) Learned Trial Court may impose any additional condition of bail if it deems fit to do so, at any time, while the petitioner is enlarged on bail.

With the above observation, this bail application is disposed of.

JUDGE

Comparing Assistant