

GAHC010008952024



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

Case No. : AB/150/2024

MOKIBUR RAHMAN
S/O BACHIR ALI
R/O SARU DAMPUR NO. 3.
P.S. HAJO
DIST. KAMRUP, ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MS. T SOM

Advocate for the Respondent : PP, ASSAM

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

30.01.2024

Heard Ms. T. Som, learned counsel appearing for the petitioner. Also heard Ms. A. Begum, 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 **Makibur Rahman**, in connection with **Pragjyotishpur P.S. Case No. 03/2024**, registered under Sections **120(B)/420/468/419/471/472** of the Indian Penal Code, 1860.

3. The case of the prosecution in brief is that on 29.12.2023, the informant Sri Satish Kalita lodged an FIR before the Pragjyotishpur police station alleging inter-alia that he is the owner of two plot of lands i.e. (1) measuring 7 Bighas, 2 Kathas, and (2) measuring 1 bigha 12 lecha and said lands falls under the tribal belt, but a person namely Dhirendra Mohan Das in a fraudulent manner executed 3 nos of Sale deed claiming as the owner of the land in favour of Bhimkanta Das @ M/S Raj Sekhar Const Pvt. Ltd.

4. Further, it was stated that Sri Majoj Kumar Agarwala is of the director of said company. It is also alleged that one person namely, Bihari Lal Sharma, is the fraudulent buyer of the said land. Accordingly, a case has been registered.

5. Ms. T. Som, learned counsel for the petitioner submits that the accused/petitioner has not been named in the FIR and is the neighbour of the informant. She further submits that the accused/petitioner is willing to co-operate with the investigation.

6. Ms. A. Begum, learned Addl. P.P. on the other hand opposes the prayer of bail. She submits that on the basis of the case diary that the investigation has progressed substantially and the statement of accused/petitioner has already been recorded.

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

8. It appears from the statement that the co-accused have not named the present accused/petitioner.

9. Considering that neither the petitioner/accused has been named in the FIR nor the statement recorded under Section 161 Cr.P.C reveals his role in the offence alleged, this Court is of the opinion that a case for grant of anticipatory bail has been made out.

10. Considering the facts and circumstances of the case, it is provided that in the event of his arrest, the petitioner named above shall be released on bail on furnishing of bail bond of Rs. 50,000/- with one surety of like amount to the satisfaction of the arresting authority, subject to the following conditions-

- (i) That the petitioner shall co-operate in investigation as and when required; and
- (ii) That the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer, and
- (iii) That the petitioner shall refrain from such activities with which he has alleged.

11. Return the case diary.

12. This disposes of anticipatory bail application.

JUDGE

Comparing Assistant