

GAHC010017462024



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

Case No. : Bail Appln./255/2024

NAJMUL ALOM @MOON CHOUDHURY
S/O- LATE SAMIRULLA ALOM,
R/O- SATGAON MILIJULI PATH,
P.S- SATGAON, DIST KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : SAURABH BORTHAKUR

Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

30.01.2024

Heard Ms. S. Kakati, learned counsel for the accused and Mr. B. Sarma, learned Additional Public Prosecutor for the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused namely, **Najmol Alom @ Moon Choudhury**, who has been languishing in jail hazot in connection with the **Satgaon P.S. Case No. 226/2023**, under Sections 120[B]/406/420/468/471/506 of the IPC, for granting bail.

3. The said case has been registered on the basis of an FIR lodged by one

Jadunandan Ray, on 06.12.2023. The essence of allegations made in the FIR is that one Latif Ali of Satgaon, has executed one agreement with him to sale a plot of land, measuring 9 Lechas covered by Dag No. 170 [New] and Patta No. 107 [New], situated at Kalitakuchi village under Beltola Mouza. Later on, he refused to register the agreement and entrusted task to one Nazmul Alam for execution of the sale deed and took a sum of Rs. 3,80,000/- and both the accused persons cheated him for selling the aforementioned plot of land, to which none of them were the owner.

4. Ms. Kakati, learned counsel for the accused submits that this is the second bail application preferred by the accused and the first one was rejected by this Court, vide order dated 11.01.2024, in BA No. 4620/2023, after perusing the case diary. Ms. Kakati further submits that the ground for filing this second application is that while the accused was languishing in jail hazot, he has never been questioned by the IO concerned and that the accused was arrested on 07.12.2023, and since then he has been languishing in jail hazot for last 55 days and that the main accused has already been granted the privilege of pre-arrest bail by this Court, vide order dated 12.12.2023, in AB No. 4163/2023, and therefore, it is contended to allow this petition.

5. On the other hand Mr. Sarma, learned Additional Public Prosecutor submits that this Court was pleased to dismiss the earlier bail application preferred by the accused, after perusing the case diary and that no change of circumstance in there in favour of the accused has been shown in this application and therefore, it is contended to dismiss the petition.

6. Having heard the submission of learned counsel for both the parties, I have carefully gone through the petition as well as the documents placed on record and also perused the order dated 11.01.2024, in BA No. 4620/2023.

7. It appears that vide order dated 11.01.2024, in BA No. 4620/2023, this Court has dismissed the earlier bail application preferred by the accused, having found incriminating materials against the accused in the case diary. It also appears that

investigation of the case is still going on.

8. Thus, the grounds so assigned by the learned counsel for the accused for filing this second bail application is also found not at all satisfactory and no change of circumstance is shown to have existed in favour of the accused. Therefore, this Court is of the view that this is not a fit case where the privilege of bail can be extended to the accused.

9. Accordingly, the petition stands dismissed.

JUDGE

Comparing Assistant