

GAHC010038812024



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

Case No. : AB/611/2024

JADUPATI SARKAR
S/O LATE DHANIRAM SARKAR, R/O VILL-BARSHAN GAON MULAGAON,
P.S.-BONGAIGAON, P.O.-BONGAIGAON, DIST-BONGAIGAON

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. S C BISWAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

13.03.2024

Heard Mr. S.C. Biswas, learned counsel for the applicant and Mr. B. Sarma, learned Addl. Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with **Bongaigaon P.S. Case No. 559/2023**, under Sections 120B/420/468/471 of the IPC, this application under Section 438 Cr.P.C. has been preferred by the applicant namely, **Jadupati Sarkar**, for grant of pre-arrest bail.

3. It is to be noted here that the aforementioned case has been

registered on the basis of an FIR lodged by one Saurav Kumar Das, Circle Officer, Bongaigaon Revenue Circle, Bongaigaon on 27.12.2023. The essence of allegation made in the FIR dated 27.12.2023, is that the applicant is the owner of a plot of land, measuring 0 Bigha 2 Kathas 0 Lecha, bearing Patta No. 3, Dag No. 310, and the said plot of land was purchased by the Government for construction of road under Asom Mala Project, fixing the sale price at Rs. 32,13,895/-, and some other sellers also have given NOC in favour of Urmila Sarkar that they do not have any objection if the entire amount is credited in her bank account. But, it has been found that one of the signatory, namely, Satya Bala Sarkar has already suffered demise in the year 1999, and it has been revealed from a complaint given by Nirmala Bala Ray that the said misdeed was done by one Jadupati Sarkar.

4. Mr. Biswas, learned counsel for the applicant submits that the applicant is innocent and no way involved with the offence alleged in the FIR and that he is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, by producing the Case Diary before this Court, Mr. Sarma, learned Additional Public Prosecutor submits that though the IO has examined some witnesses, yet, none of the witnesses have implicated the present applicant with the offence alleged in the FIR.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition as well as the documents placed on record and also perused the Case Diary produced before this Court, with the assistance of learned Additional Public Prosecutor.

7. The case diary indicates that though the IO has examined some witnesses, yet, none of the witnesses have implicated the present applicant with

the offence alleged in the FIR.

8. In view of above and considering the nature and gravity of the offence as well as the punishment prescribed for the same and also considering the submissions of learned counsel of both sides, this Court is of the view that further custodial interrogation of the applicant may not be required, in the interest of investigation.

9. Accordingly, it is provided that in the event of arrest of the applicant, in connection with **Bongaigaon P.S. Case No. 559/2023**, under Sections 120B/420/468/471 of the IPC, they shall be enlarged on pre-arrest bail, on his executing a bond of Rs. 50,000/- only, with one surety of like amount to the satisfaction of the arresting authority.

10. The above privilege is, however, subject to the following conditions:

(i) that the applicant shall make himself available for interrogation by the Investigating Officer as and when required;

(ii) that the applicant 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 applicant shall not leave the jurisdiction of the learned **Chief Judicial Magistrate, Bongaigaon**, without prior permission.

11. In terms of this AB stands disposed of.

12. The case diary be returned.

JUDGE

Comparing Assistant