

GAHC010041852024



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

Case No. : AB/542/2024

ABDUR RAHIM AND 2 ORS.
S/O LATE JOMIRUDDIN AHMED
R/O VILL- KARBALA
P.S. AND DIST. GOALPARA, ASSAM
PIN-783101, ASSAM

2: MOFIJUDDIN AHMED
S/O LATE JOMIRUDDIN AHMED
R/O VILL- KARBALA
P.S. AND DIST. GOALPARA
ASSAM
PIN-783101
ASSAM

3: KAMAL SINGH PASORIA @ KAMAL SINGH KASERIA
S/O CHAMPALAL PASORIA
R/O KACHARI ROAD
P.S. AND DIST. GOALPARA
ASSAM
PIN-78310

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR Z ALAM

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER**

10.05.2024

Heard Mr. S. Nazneen, learned counsel for the applicants; Mr. B.B. Gogoi, learned Additional Public Prosecutor for the State respondent; and Mr. M. Salim, learned counsel for the informant.

2. Apprehending arrest in connection with **Hatigaon P.S. Case No. 57/2023**, under Sections 406/420/448/468 of the IPC, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicants namely, **Abdur Rahim; Mofijuddin Ahmed; and Kamal Singh Pasoria @ Kamal Singh Kaseria** for grant of pre-arrest bail.

3. The said case has been registered on the basis of one F.I.R., lodged by one Abdul Kuddus, on 07.02.2023. The essence of allegations made in the FIR is that the informants have taken a sum of Rs. 32,00,000/- from one Abdur Rahim for business purpose and as a security they had given the original deed of a plot of land, measuring 1 Katha 10 Lechas, situated at Hatigaon under Beltola mouza, covered by Dag No. 284 of Patta No. 10 with an Assam Type House to Abdur Rahman and after few months they have returned the amount, but said Abdur Rahim instead of returning the deed, took possession of the said land, in absence of the informant.

4. Ms. Nazneen, learned counsel for the applicants submits that this Court was pleased to grant interim protection to the applicants, vide order dated 01.03.2024, and pursuant to the said order, the applicants had appeared before the I.O. and cooperating with the investigating agency and therefore, it is contended to make the interim order dated 01.03.2024, absolute in the same

terms and conditions.

5. On the other hand, Mr. Gogoi, learned Additional Public Prosecutor by producing the case diary before this court, submits that the statements of the applicants have been recorded by the I.O., prior to the interim order dated 01.03.2024. Mr. Gogoi further submits that vide order dated 12.03.2024, passed in Criminal Appeal No. 256/2024, this Court has stayed the further investigation of the Hatigaon P.S. Case No. 57/2023.

6. Whereas Mr. Salim, learned counsel for the informant has produced one report submitted by the Deputy Commissioner of Kamrup (M) at Guwahati to the Principal Private Secretary to the Chief Minister, Assam wherein the Deputy Commissioner has stated that the signatures of the parties in the sale deed were taken fraudulently and the aggrieved parties were suggested to file an FIR under Section 420 of the IPC and therefore, Mr. Salim has opposed the petition.

7. Having heard the submissions 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 with the assistance of learned Additional Public Prosecutor.

8. The case diary indicates that the statements of the present applicants have already been recorded by the I.O. prior to the order of this Court dated 01.03.2024. Further, it appears that the I.O. has achieved some progress in the investigation of the case before staying of the same by this Court.

9. In view of the submissions of learned counsel for both the parties and also considering the fact that the applicants have been cooperating with the

investigating agency and that of the progress of investigation, this Court is of the view that custodial interrogation of the applicants seems to be unwarranted here in this case. And therefore, this Court is inclined to make the interim order dated **01.03.2024, absolute** in the same terms and condition.

10. In terms of above this AB stands disposed of.

11. The case diary be returned.

JUDGE

Comparing Assistant