

GAHC010048762024



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

Case No. : AB/616/2024

JAKIR HUSSAIN
S/O SOHRAB ALI, R/O KALACHAR, P.O.-KALACHAR, P.S.-MUKALMUWA,
DIST- NALBARI, ASSAM, PIN NO. 781312

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. M K MISRA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 15.05.2024

Heard Mr. M.K. Misra, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Addl. P.P., Assam for the State respondent.

This is an application under Section 438 of the Cr.P.C. for granting pre-arrest bail to the petitioner, namely, Jakir Hussain in Connection with Garchuk P.S. Case No. 375/2023 registered under Sections 120(B)/420/407/468/409 of the IPC.

The C.D. has been received.

I have perused the same.

It is submitted by Mr. Misra, the learned counsel for the petitioner that while dealing with the earlier petition for anticipatory bail some documents could not be produced before the Court. He submits that as per the sale deed it was executed in favour of the petitioner for the plot of land covered by Khiraj Periodic Patta No. 53 and Dag No. 587 for the land measuring 2 Bighas and 10 Lechas. But the allegation which was brought against the present petitioner as shown in the FIR covers the Dag No. 578 and not 587 and thus he submitted that he purchased the land from the original owner i.e. the informant from Dag No. 587 and not from Dag No. 578 as alleged in the FIR.

It is submitted by the learned counsel for the petitioner that the accused petitioner is in no way connected with the alleged offence and is a bonafide purchaser. However, the petitioner is ready and willing to cooperate with the investigating Officer for further investigation of the case if he is granted privilege of pre-arrest bail.

In this context Mr. Borthakur, the learned Addl. P.P. has submitted that there are sufficient incriminating materials against the present petitioner and he is the main culprit and mastermind of the allegation. The sale deed of the land was executed in the year 1998 in the office of the Sub-Registrar, Guwahati, Kamrup in the name of the present petitioner is a fake registered sale deed. However, the FSL Report is yet to be collected by the Investigating Officer in regard to the signature available in the sale deed. He further submitted that entire sale deed was executed in favour of the present accused petitioner by manipulating the record by the staff of Sub-Registrar office and hence his custodial interrogation will be necessary to unearth some more facts of the case. Thus, the learned Addl. P.P. has raised objection in granting privilege of pre-arrest bail to the accused petitioner.

Considering the submissions of learned counsel for both the sides and also considering

the materials available in the case diary, it is seen that there are sufficient materials against the present petitioner showing his direct involvement in the alleged offence. It is seen that some documents are already collected by the investigating officer. But, considering the materials in the case diary, I find that custodial interrogation of the accused petitioner may be necessary to unearth some more facts of the case as he is considered to be the main culprit of the entire complaint.

In view of above, considering the nature of allegation brought against the present accused petitioner, I find that this is not a fit case to grant privilege of pre-arrest bail to the accused petitioner. Accordingly, the prayer for pre-arrest bail stands rejected.

The pre-arrest bail application is disposed of.

JUDGE

Comparing Assistant