

GAHC010052412024



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

Case No. : AB/654/2024

MAZNUR ALI
S/O LATE IDRIS ALI
R/O VILL AND P.O. CHENGA
P.S. TARABARI,
DIST. BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. D GOSWAMI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 09.04.2024

Heard Mr. D. Goswami, learned counsel for the applicant. Also heard Mr. R.J. Baruah, learned Addl. Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with Dispur P.S. Case No. 2497/2022, under Sections 420/468/471 of the IPC, this application under Section 438

Cr.P.C. has been preferred by the applicant, namely, Maznur Ali, 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 Smt. Punya Prabha Hazarika @ Smt. Punya Devi Narayan on 24.11.2022. The essence of allegation made in the FIR dated 24.11.2022, is that the informant is the owner of a plot of land, measuring 1 bigha, covered by Dag No. 401, 400(old)/945(new), under K.P. Patta No. 155(old)/233(new) of village Dwarandha, Mouza Beltola, Kamrup (M) district, which she has purchased by executing four registered sale deeds and she has been paying land revenue regularly. But, one Debajit Nath along with one Ajay Kumar Sharma and Pankaj Biswas of M/s Balaji Developers, with an intention to grab her land, had manufactured forged registered General Power of Attorney, being Sl. No. 5646 and Deed No. 1139, dated 05.03.2022, created false and fabricated Sale Deed No. 25478 and 20542, dated 02.07.2022, with the help of Sub-Registrar, Kamrup(M) as well as drafter and identifier by putting her forged signature.

4. Mr. Goswami, learned counsel for the applicant submits that the applicant is innocent and no way involved with the offence alleged in the FIR, but he is being searched by police in connection with this case, and that the applicant is ready to cooperate with the investigating agency, and therefore, it is contended to allow the application.

5. On the other hand, Mr. R.J. Baruah, the learned Addl. Public Prosecutor has produced the case diary before this Court and fairly submits that the materials, so far collected by the I.O in the case diary are inadequate to show the complicity of the applicant with the offence alleged in the FIR. However, Mr. Baruah submits that the applicant may be directed to appear before the I.O.

and the case diary may be directed to be sent back to the I.O. so as to enable him to produce the updated case diary before this Court.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the application and the documents placed on record and also perused the case diary with the assistance of Mr. R.J. Baruah, learned Addl. Public Prosecutor.

7. The case diary fails to disclose any legally prosecutable culpability against the present applicant. Nowhere in the FIR and also in the materials collected so far, there is any reference to the present applicant to show his involvement with the offences alleged in the FIR.

8. Under the aforementioned facts and circumstances, custodial interrogation of the applicant seems not to be warranted here in this case and therefore, this Court is inclined to allow the application.

9. Accordingly, it is provided that in the event of arrest of the applicant in connection with Dispur P.S. Case No. 2497/2022, under Sections 420/468/471 of the IPC, he shall be released on pre-arrest bail on executing a bond of Rs. 50,000/- with one surety of like amount to the satisfaction of the arresting authority. The above privilege is, however, subject to the following conditions:

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

(ii) 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) The applicant shall not leave the jurisdiction of the learned CJM, Kamrup(M), Guwahati, without prior permission.

10. In terms of above, this application stands disposed of.

11. Case diary be returned.

JUDGE

Comparing Assistant