

GAHC010053862024



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

Case No. : AB/677/2024

REKIBUR ZAMAN
S/O LATE RAHMAN ALI
R/O VILL- GARIGAON,
ORTOL
P.S. JALUKBARI
DIST. KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. A K AZAD

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 05.04.2024

Heard Mr. A.M. Bora, learned Senior counsel assisted by Mr. V.A. Choudhury, learned counsel for the applicant. Also heard Mr. B.B. Gogoi, learned Addl. Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with Azara P.S. Case No. 08/2024, under Sections 120B/420/466/468 of the IPC, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicant, namely, Rekibur Zaman 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 one Kumar Gaurav, Managing Director of Amar Shakti Commerce & Industries Ltd. on 09.01.2024. The essence of allegation made in the FIR dated 09.01.2024, is that his company has decided to purchase a plot of land measuring 03 kathas 05 lechas covered by Dag No. 1375 and K.P. Patta No. 19, situated at Dharapur Majoli Village, at the instance of Rajul Ahmed, from one Atiqur Rahman, who had the Power of Attorney of the said land from of the owner of the said land namely, Harun Rashid, and entered into an agreement. But, he could not proceed further and entrusted the work of execution of sale deed to Rajul Ahmed, Atiqur Rahman and Rekibur Zaman @ Zamar and finally sale deed was executed on 17.04.2021. In the year 2023, the aforementioned persons also took his signature on an application for mutation of the said land and thereafter, they had handed over a copy of Jamabandi to him showing the name of Company as pattadar. Thereafter, he received one notice from Circle Officer, Azara in connection with ARC Case No. 2023/720, and on 21.12.2023, his counsel had appeared in the said hearing and collected some documents and on perusal of the same, he came to know that sale deed and sale permission is different from the original documents which were available with him, for which he has reason to believe that some persons had committed fraud with the company in the entire sale process.

4. Mr. Bora, learned Senior counsel for the applicant submits that this is the second anticipatory bail application preferred by the applicant and the first

application, being AB No. 390/2024 was dismissed by this Court, vide order dated 04.03.2024, after perusing the case diary. Mr. Bora further submits that in connection with the same plot of land and same offence, another FIR was filed by another person upon which Azara P.S. Case No. 10/2024 has been registered against the present applicant, wherein he has already been granted bail by the Court of learned Addl. Sessions Judge No. 1, Kamrup(M), Guwahati, vide Annexure '3', at page No. 31 of the application, after perusing the case diary, and that the allegation levelled in the present FIR also being the same against the present applicant, he may be granted the privilege of pre-arrest bail in the present case also, as for the same offence two FIRs are not maintainable.

5. On the other hand, Mr. Gogoi, learned Addl. Public Prosecutor submits that the present applicant is, however, not named in the FIR, but he is the friend of the main accused in the aforementioned case and as such, his custodial interrogation is being sought for by the I.O. concerned. Mr. Gogoi also submits that though the informants of both the cases are different, yet the plot of land in respect of which the aforementioned offence was committed, is same.

6. Having heard the submission of learned Advocates of both sides, I have gone through the application and the documents placed on record and also perused the case diary of Azara P.S. Case No. 10/2024 and Azara P.S. Case No. 8/2024, with the assistance of Mr. B.B. Gogoi, learned Addl. Public Prosecutor, which are being produced before this Court pursuant to the order dated 02.04.2024, by Mr. B.B. Gogoi, learned Addl. Public Prosecutor.

7. Having considered the submission of learned Advocates of both sides and also considering the facts and circumstances on the record as well as available in the case diary, this Court is inclined to allow the application, as the applicant has already been granted bail by the learned Court below.

8. Accordingly, it is provided that in the event of arrest of the applicant in connection with Azara P.S. Case No. 8/2024, under Sections 120B/420/466/468 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 C.J.M., Kamrup(M), Guwahati without prior permission.

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

10. Case diary be returned.

JUDGE

Comparing Assistant