

GAHC010054322024



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

Case No. : AB/687/2024

DHIRAJ TUMUNG
S/O LATE BHAGIRAM TUMUNG, R/O VILL- DHOLBOMA, P.S.-GARCHUK,
DIST-KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. A M BORA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 03.04.2024

Heard Mr. A.M. Bora, learned senior counsel assisted by Mr. D.K. Baidya, learned counsel for the petitioner. Also heard Mr. R.R. Kaushik, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 438 of the Code of Criminal Procedure, 1973, praying for grant of pre-arrest bail to the accused/petitioner, Dhiraj Tumung who is apprehending arrest in connection with Garchuk P.S. Case No.9/2024 under Sections 120(B)/420/467/468/409 IPC.

Case diary is received. Perused the same.

It is submitted by the learned counsel for the petitioner that the petitioner is basically a purchaser of the land which he purchased from one Hemanta Talukdar, who was an attorney holder of one Deben Kalita. He purchased the land in the year 2021 and the power of attorney was executed in the year 2013. After obtaining all particulars he purchased the land as a bond fide purchaser. But the informant who is a neighbor tried to grab the land of the present petitioner and in that context, the petitioner also lodged an FIR against the informant. The case is registered and pending at the stage of investigation. Learned senior counsel for the petitioner further submits that the accused petitioner is a bonafide purchaser and it is a case of civil dispute by giving it a criminal colour the present FIR has been lodged only with the allegation that he purchased the land without obtaining NOC or sale permission from the concerned authority. Apart from that there is no allegation against the present petitioner. However, the petitioner is ready and willing to appear before the I/O as and when cooperation is needed by the I/O.

In this context, learned Additional Public Prosecutor has submitted that the present accused petitioner had appeared before the I/O in two occasions and his statement has also been recorded under Section 161 Cr.P.C.

From the materials available in the case diary, it is seen that prior to the execution of the sale deed by Hemanta Talukdar in favour of the petitioner one agreement was made between Hemanta Talukdar and the brother of the present petitioner but he subsequently died and the present petitioner entered into the agreement and sale deed was accordingly executed. However, he submits that one complaint has been lodged by the informant which is pending before the District Magistrate and no order has been passed till date.

Considering the entire submissions made by the learned counsel for both sides and on perusal of the case diary, it is seen that the accused/petitioner already appeared before the I/O and extended his cooperation to the I/O. There is sufficient progress in the investigation of the case and most of the relevant documents are already seized by the I/O and hence I find that custodial interrogation may not be necessary at this stage. Accordingly, I fit it a fit case to extend the privilege of pre-arrest bail to the accused petitioner.

Accordingly, it is provided that in the event of arrest of the accused/petitioner, namely, Dhiraj Tumung, in connection with Garchuk P.S. Case No.9/2024 under Sections 120(B)/420/467/468/409 IPC of the Indian Penal Code, he shall be enlarged on pre-arrest bail on his executing a bond of Rs.

20,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the arresting authority, subject to the following conditions:

- (i) that the petitioner shall appear before the Investigating Officer of the case within a period of 1 (one) week from today;
- (ii) that the petitioner shall fully co-operate with the investigation of the case and shall appear before the Investigating Officer as and when required in connection with the investigation of the aforesaid P.S. Case; and
- (iii) that the petitioner 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.

The anticipatory bail application stands disposed of in terms above.

The Case Diary be sent back.

JUDGE

Comparing Assistant