

GAHC010073502024



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

Case No. : AB/952/2024

EAJUL HOQUE @ YAJUL HOQUE
S/O ALIMUDDIN AHMED, R/O SATGAON, NOWAPARA, MILIJULI PATH, P.O.-
PANJABARI, P.S.-SATGAON, DIST- KAMRUP, ASSAM, PIN CODE-781027

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. R P SARMAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

01.05.2024

Heard Mr. R.P. Sarmah, learned Senior Counsel assisted by Ms. T. Som, learned counsel for the applicant and Ms. A. Begum, learned Additional Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with the **Satgaon P.S. Case No. 20/2024**, under Sections 420/471/384/506/34 of the IPC, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicants namely, **Eajul Hoque @ Yajul Hoque** for grant of pre-arrest bail.

3. It is to be noted here that the said case has been registered on the basis of one F.I.R., lodged by one Tamiz Uddin Ahmed and Riyaz Ali, on 07.02.2024. The essence of allegation made in the FIR is that the informants have purchased a plot of land, measuring 1 Katha 6 Lechas covered by Dag No. 2157 and Patta No. 1236, of Satgaon village, under Beltola Mouza, with consideration of Rs. 20,80,000/- from the power of Attorney holders namely, Salim Ali of Satgaon and Himangshu Sarma of Borbari Chowk, by registered sale deed dated 05.10.2023, and thereafter, got the same mutated in their name and also paid revenue for the said plot. Thereafter, in the first week of November, 2023, one Ibrahim Ali, with instruction from Yajul Hoque and Hafij Ali, who are land Mafias, illegally grabbed approximately 10 Lechas land, out of 1 Katha 6 Lechas, of their land and residing in the said plot of land by constructing a Tin roof house, after obtaining forged and fabricated land documents from Yajul Hoque and Hafij Ali.

4. Mr. Sarmah, learned Senior Counsel appearing for the applicant submits that this is the second anticipatory bail application preferred by the applicant and the first application, being AB No. 464/2024, was dismissed by this Court after perusing the case diary, vide order dated 15.03.2024. Mr. Sarmah further submits that this second anticipatory bail application is preferred on the ground that in the first application some of the documents, such as Annexure III & IV, were not enclosed. Mr. Sarmah also submits that the applicant is no way involved with the offence alleged in the FIR and that he is ready to cooperate with the investigating agency and the main culprit is one Salim Ali, who sold the land to the two different persons by an unregistered agreement. Mr. Sarmah also submits that the dispute is civil in nature and the civil cases also instituted by the parties in respect of the said plot of land.

Therefore, Mr. Sarmah has contended to allow the petition.

5. On the other hand, by producing the Case Diary before this Court, Ms. Begum, learned Additional Public Prosecutor submits that the I.O. has collected sufficient incriminating materials against the applicant and therefore, it is contended to dismiss the petition.

6. Having heard the submission 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 produced before this Court with the assistance of learned Additional Public Prosecutor.

7. The case diary indicates that the I.O. has collected sufficient incriminating materials against the applicant. Further, it appears that custodial interrogation of the applicant is unwarranted to unearth the entire chain of events.

8. In view of the materials so far collected in the case diary and also considering the nature and gravity of the offence, this Court is of the view that this is not a fit case where the privilege of pre-arrest bail can be extended to the applicant and therefore, the same is dismissed.

9. The case diary be returned.

JUDGE

Comparing Assistant