

GAHC010077792024



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

Case No. : AB/1018/2024

SISIR BISWAS
S/O LATE RANJAN BISWAS, R/O H.NO.-30, HATIGAON, SEWALI PATH, P.S.-
HATIGAON, DIST- KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MAYUR DAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

01.05.2024

Heard Mr. S.N. Krishnatraya, learned counsel for the applicant and also heard Ms. A. Begum, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. Apprehending arrest in connection with Chandmari P.S. Case No.452/2023, under

Section 420/406 IPC, this application under Section 438 Cr.P.C. is preferred by applicant, namely, Sisir Biswas, 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 Biswajit Malakar, on 07.12.2023. The essence of allegation made in the aforesaid FIR is that he purchased a flat, being Flat No.202, on the 2nd Floor RCC building, namely, Subh Enclave, measuring 1400 sq.ft. from M/s Subham Builders, represented by its proprietor Sisir Das, vide registered Sale Deed dated 03.09.2021, being Serial No.16979, Deed No.13221/2021 and registered the same before the Sub-Registrar Office at Guwahati, for total consideration of ₹ 21,23,000/- and ₹ 1,06,150/- as GST amount and after execution of the sale deed, he got possession of the aforesaid flat and put the flat under lock and key and got the Flat mutated in his name. Thereafter, on 04.12.2023, when he went to the aforesaid flat, he found that the lock of the door was broken and one Lily Choudhury is staying there and immediately he contacted with the applicant and then he came to know that the applicant fraudulently sold the aforesaid flat to Lily Choudhury and he also threatened the informant to harm him, if he enters the Subh Enclave Apartment.

4. Mr. Krishnatraya, learned counsel for the applicant submits that this is the second pre-arrest bail application and the first one being AB No.4300/2023, was dismissed by this Court after perusing the case diary and that this application is being preferred on the ground of ailment of wife of the applicant, who has been suffering from serious ailments and that the applicant is innocent and no way involved with the offence alleged in the FIR and that he is ready to cooperate with the investigating agency and that his wife is also suffering from some ailments and therefore, it is contended to allow the petition.

5. On the other hand, Ms. A. Begum, learned Additional Public Prosecutor, Assam, submits that she has not received the case diary, but as per her instruction, the I.O. has completed investigation and submitted charge-sheet, being Charge-Sheet No.76/2024, dated 27.02.2024, under Section 420/406 IPC.

6. Since charge-sheet has been submitted after completion of investigation, this Court

is inclined to dispose of this anticipatory bail application by directing the applicant, namely, Sisir Biswas, to appear before the learned Court below on or before **15.05.2024**, and to apply for regular bail and in the event of filing such an application, the learned Court below shall consider the same in accordance with law.

7. Till then, it is provided that in the event of arrest of the applicant, namely, Sisir Biswas, in connection with Chandmari P.S. Case No.452/2023, under Section 420/406 IPC, he shall be released on interim pre-arrest bail on his executing a bond of ₹ 50,000/- with one surety of the like amount to the satisfaction of the arresting authority. The above privilege is, however, subject to the following conditions:-

- (i) The applicant shall appear before the learned Court below on or before 15.05.2024;
- (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), without prior permission.

8. In terms of above, this anticipatory bail application stands disposed of.

Sd/- Robin Phukan
JUDGE

Comparing Assistant