

GAHC010080462024



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

Case No. : AB/1032/2024

TAJ UDDIN BARBHUIYA @ MD. TAJ UDDIN
S/O LATE ARJAMAND ALI BARBHUIYA
R/O BILPAR DHUMKHAR
P.O. RANGAUTI, P.S. HAILAKANDI, PIN CODE-788155, DIST. HAILAKANDI,
ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. S A HUSSAIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

14.05.2024

Heard Mr. D.J. Haloi, learned counsel for the applicant and also heard Mr. K.K. Das, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. Apprehending arrest in connection with Hailakandi P.S. Case No.113/2024, under Section 420/506 IPC, this application under Section 438 Cr.P.C. is preferred by applicant, namely, Taj Uddin Barbhuiya @ Md. Taj Uddin, 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 Rabia Khatun Barbhuiya, 19.12.2023. The essence of allegation made in the aforesaid FIR is that in presence of Taj Uddin Barbhuiya, she has executed a Bainanama in favour of one Sakat Ali Mazarbhuiya and Abul Hussain Mazarbhuiya on 08.03.2023 and 09.03.2023, respectively, for sale of a plot of land and the said purchasers had given altogether a sum of ₹ 7,00,000/- to her in presence of the accused persons, advocates and others and that accused Taj Uddin Barbhuiya has received the said amount on behalf of the informant, but he did not handover the said amount to the informant.

4. Mr. Haloi, learned counsel for the applicant submits that the applicant is innocent and no way involved with the offence alleged in the FIR and the allegations levelled in the FIR are false and fabricated and in fact, he has not received any money from the informant and that Sakat Ali Mazarbhuiya and Abul Hussain Mazarbhuiya have purchased a plot of land from the informant and thereafter, Sakat Ali Mazarbhuiya and Abul Hussain Mazarbhuiya along with the informant have occupies a plot of land belonging to the present applicant, for which the present applicant has lodged one Title Suit before the learned Civil Judge, Hailakandi, being Title Suit No.85/2023 for recovery of the possession and that the applicant has not been served any notice under Section 41A Cr.P.C. as mandated by Hon'ble Supreme Court in the case of **Arnesh Kumar v. State of Bihar**, reported in **(2014) 8 SCC 273** and that the applicant is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, Mr. K.K. Das, learned Additional Public Prosecutor, Assam, has produced the case diary before this Court and submits that the I.O. has collected

sufficient incriminating materials against the present applicant and all the witnesses so far examined by the I.O. have stated that the present applicant has received the amount of ₹ 7,00,000/- from the purchasers and he has not handed over the amount to the informant till date and that his custodial interrogation is required in the interest of investigation and therefore, Mr. Das contended to dismiss the petition.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Das, learned Additional P.P.

7. The case diary indicates that the I.O. has collected sufficient incriminating materials against the present applicant. The investigation is still going on and extending the privilege of pre-arrest bail to the present applicant at this stage will hamper the investigation. His custodial interrogation appears to be indispensable in the interest of investigation. And therefore, this Court is of the view that this is not a fit case, where the privilege of pre-arrest bail can be granted to the applicant and accordingly, this anticipatory bail application stands dismissed.

8. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant