

GAHC010086152024



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

Case No. : Bail Appln./1245/2024

SAIDUR RAHMAN
S/O LATE MAJIR ALI
R/O P.D. CHALIHA ROAD, BYELANE NO. 13, HEDEYATPUR, SILPUKHURI
GUWAHATI-781003, DIST. KAMRUP (M), ASSAM
THROUGH HIS BROTHER SAFIKUR RAHMAN SON OF LATE MAJIR ALI
R/O VILL- JATIABHANGARA, MUKTAPUR, P.S. BAIHATA CHARIALI, DIST.
KAMRUP (R), ASSAM, PIN-781381

VERSUS

THE STATE OF ASSAM
REP. BY THE LEARNED PP, ASSAM

Advocate for the Petitioner : MR. R K D CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 15.05.2024

Heard Mr. R. K. D. Choudhury, learned Senior Counsel assisted by Ms. L. Devi, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 439 of the Code of Criminal Procedure, 1973, praying for grant of bail to the accused/petitioner, who has been arrested in connection with Bhangagarh P.S. Case No. 40/2014, under Sections 120(B)/420/ 409/468/471/34 of the Indian Penal Code.

Case Diary has been received. Perused the same. Heard both sides.

It is submitted by Mr. Choudhury, learned Senior Counsel for the petitioner, that the present petitioner is innocent and he is not at all involved in the alleged offence. It is a fact that the land was mutated in his name, but it was wrongly mutated and when he came to know about the said mutation, he informed the concerned Mandal to delete his name and to correct the mutation in the name of the original land owner. Further, he never put any signature on any documents forging the signature of original owner. More so, he was not aware that the land was mutated in his name. However, as there are other some other lands adjacent to the disputed land, the mutation might have been done in his name wrongly, and coming to know about the same, he himself prayed before the Office of the Mandal to delete his name and to mutate the name of the original owner. Further he submitted that there is sufficient progress in the investigation and the case is basically on the documentary evidences and all the relevant documents are already been seized by the police during the investigation. More so, he is behind the bar since 06.04.2024 and thus, the I.O. got sufficient time for his custodial interrogation and accordingly his further custodial interrogation may not be necessary for the interest of further investigation. However, he is ready and willing to appear before the I.O. as and when his co-operation will be needed.

In this context, Mr. P. Borthakur, learned Additional Public Prosecutor, has submitted that there are sufficient incriminating materials against the present accused/petitioner and as per the allegation, fake sale deed was executed in favour of the accused/petitioner. But, during the investigation, the I.O. found that the said deed is a mortgaged deed in the name of some other person. He further submitted that unless the accused/ petitioner applied for his mutation over the disputed land, the same cannot be mutated in his name and on the basis of the fake sale deed executed in the year 1982, he applied for the mutation in the year 2023. He further submitted that in this kind of cases, not only the accused/petitioner, but the other official of the Sub Registrar are also involved in this case. Further he submitted that there is sufficient progress in the investigation. But, till date, the present accused/petitioner did not produce the original sale deed (fake sale deed) before the I.O.

In this regard, Mr. Choudhury, learned Senior Counsel for the petitioner, has submitted that the petitioner has already co-operated the I.O. in the investigation of this case and that apart, he was also in police custody for a reasonable period. However, he is ready and willing to co-operate with the I.O. in the further investigation of this case and considering his length of detention, he may be enlarged on bail.

After hearing the submissions made by the learned counsels for both sides and also considering the entire aspects of the case as well as the materials available in the case record, it is seen that there is sufficient progress in the investigation of this case and most the relevant documents are already been collected by the I.O. in connection with this case. However, as per the report of the I.O., the sale deed which is considered to be a fake sale deed is yet to be produced by the accused/petitioner before the I.O. However, considering the length of detention already undergone by the accused/petitioner, viz-a-viz his police custody, I am of the view that the I.O. has got ample opportunity to interrogate the accused/petitioner keeping him in custody and accordingly, I find that further custodial interrogation of the accused/petitioner seems to be not necessary for the interest of investigation.

Accordingly, it is provided that on furnishing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup (M), Guwahati, the accused/petitioner, namely, Saidur Rahman, be enlarged on bail, subject to the following conditions:

- (i) that the petitioner shall make himself available for interrogation by the Investigating Officer as and when required and shall produce all the relevant documents in connection with this case, if any;
- (ii) 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; and
- (iii) that the petitioner shall not leave the jurisdiction of the learned Chief Judicial Magistrate, Kamrup (M), Guwahati, without prior permission.

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

JUDGE

Comparing Assistant