

GAHC010109892024



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

Case No. : Bail Appln./1586/2024

HAFIJ ALI
S/O LT. MOFIZ ALI
R/O VILL- NOONMATI
NIZARAPAR
P.O. AND P.S. NOONMATI
DIST. KAMRUP (M), ASSAM
PERMANENT RESIDENT OF VILL AND P.O. HELACHA
P.S. HAJO
DIST. KAMRUP (R), ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. B. DAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

03.06.2024

Heard Mr. B. Das, learned counsel for the accused and also heard Mr. P.S. Lahkar, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused, namely, Hafij Ali, who has been languishing in jail hazot since 03.05.2024, in connection with Satgaon P.S. Case No.20/2024, under Section 420/468/471/384/506/34 IPC, for grant of bail.

3. It is to be noted here that the above noted case has been registered on the basis of an FIR lodged by one Tamiz Uddin Ahmed, on 07.02.2024. The essence of allegation made in the aforesaid FIR is that one Ibrahim Ali, Yajul Hoque and Hafiz Ali have illegally occupied a plot of land measuring 10 lechas covered by Dag No.2157, Patta No.1236, situated at village Satgaon, Mouza-Beltola, Dispur Revenue Circle belonging to the informants, namely, Tamiz Uddin Ahmed and Riyaz Ali by obtaining forged land documents and they have also demanded money from the informant for vacating the occupied plot of land and also threatened them with dire consequences.

4. Mr. Das, learned counsel for the accused, submits that the accused was arrested on 03.05.2024 and since then he has been languishing in jail hazot for last 31 days and that one of the co-accused, namely, Eajul Hoque has already been granted bail by this Court, vide order dated 31.05.2024 in Bail Appln. No.1528/2024 and the present accused is also stand in the same footing and that he is ready to cooperate with the investigating agency and that the accused is no way involved with the offence alleged in the FIR and in fact, the owner of the land has given two power of attorneys, one to the present accused and the other to Eajul Hoque and the same creates confusion, which resulted in filing of the FIR and that he is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, Mr. P.S. Lahkar, 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 accused and that the accused persons involved in the case have already been arrested and necessary documents have already been collected. However, Mr. Lahkar, in view of the materials available in the case diary, has opposed the petition.

6. Having heard the submissions 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. Lahkar, learned Additional P.P.

7. The case diary indicates that the I.O. has collected some incriminating materials in support of the allegation made in the FIR. But it also appears that the accused was arrested on 03.05.2024 and since then he has been languishing in jail hazot. Further, it appears that the I.O. has achieved substantial progress in the investigation of this case and relevant documents have already been collected and the accused persons involved with the offence have already been arrested and one of the co-accused has already been enlarged on bail by this Court, vide order dated 31.05.2024 in Bail Appln. No.1528/2024. He is behind the bar for last 31 days and balancing the same with the nature and gravity of the offence and further considering the progress of investigation, further custodial interrogation of the accused seems to be not warranted here in this case and therefore, this Court is inclined to allow this petition. Accordingly, it is provided that on furnishing a bond of ₹ 50,000/- with one surety of the like amount to the satisfaction of the learned C.J.M., Kamrup(M), the accused, namely, Hafij Ali, be enlarged on bail. Case diary be returned.

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

Sd/- Robin Phukan
JUDGE

Comparing Assistant