

GAHC010115902024



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

Case No. : AB/1521/2024

HAYET ALI
S/O LT. ABDUL JALIL, R/O HOUSE NO. 15, SUNDARBON NAGAR,
DAKSINGAON, KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR M H AHMED

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI**

ORDER

Date : 19.06.2024

Heard Mr. M. H. Ahmed, learned counsel for the petitioner. Also heard Ms. N. Das, learned Additional Public Prosecutor for the State respondent.

This is an application under section 438 of Cr.PC for granting pre-arrest bail to the petitioner, i.e. Hayet Ali, who is apprehending arrest in connection with Crime Branch P.S. Case No. 08/2023 registered under sections 120B/420/468/471/409/447 IPC.

The case of the prosecution is that on 29.11.2023 one Bhupen Kumar Das has lodged an FIR with the Commissioner of Police, Guwahati, Assam, alleging inter-alia that he is the recorded Pattadar of a plot of land measuring 2 kathas and 2 Lechas at Panjabari, in the district of Kamrup(M), inherited after the death of his mother.

It is further alleged that land was trespassed by Shri Jagyeswar Nath and Mukshed Ali.

It is further alleged that Jagyeswar Nath purportedly obtained a fraudulent Sale Deed, which has no official record, and used it to pass a Mutation Order on January 21.01.2021.

It is further alleged that subsequently Jagyeswar Nath sold the land to Mukshed Ali using the aforesaid forged Sale Deed.

It is further alleged that government officials, including the

then Circle Officer Shri Lakhyajyoti Das and Lat Mondal Dibakar Kakati, conspired with them to illegally transfer the land ownership.

Accordingly an FIR was registered.

Mr. Ahmed, learned counsel for the petitioner submits that the petitioner who was Lat Mondal in the concerned Revenue Circle is not named in the FIR.

He further submits that the petitioner retired on 31.12.2020 and the allegations in the FIR pertains to the mutation done on 21.01.2021, i.e. after his retirement.

He according submits that the petitioner is totally innocent and has been wrongly implicated in the case.

Ms. N. Das, learned Additional Public Prosecutor on the other hand strongly opposes the prayer for Anticipatory Bail.

She submits that the materials available in the case diary indicates involvement of the petitioner in the alleged offence.

I have heard the submission made at the bar and perused the materials available on record.

It appears that the petitioner has retired on 31.12.2020 and the mutation was fraudulently done on 21.01.2021, i.e. after the retirement of the petitioner.

It further appears that there is no adverse material as regards the antecedent of the petitioner available in the case diary.

It further appears that there is no apprehension placed before this Court by the Investigating Officer as regards the possibility of the petitioner fleeing from justice.

It further appears that the statements of the witnesses have already been recorded under section 161 Cr.PC.

It further appears that investigation has substantially progressed.

Considering the totality of the circumstances of the matter, this Court is of the considered view that custodial interrogation may not be justified for the ongoing investigation.

Accordingly, it is provided that in the event of arrest, the petitioner named above, shall be released on pre-arrest bail in connection with the above noted case, on furnishing bail bond of Rs. 30,000/- with one surety of like amount to the satisfaction of the arresting authority, subject, of course, to the following conditions:-

i) That the petitioner shall appear before the Investigating Officer within 10 days, failing which on and from the 11th day, the interim-pre arrest bail order shall have no force; and the petitioner thereafter shall surrender before the Investigating Officer.

ii) That the petitioner shall not directly or indirectly make any inducement, threat or promise to any persons acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any Police Officer.

iii) That the petitioner shall refrain from committing any similar offences in future of which he is accused or suspected of commission.

With the above observations and directions, the Anticipatory Bail Application stands disposed of.

JUDGE

Comparing Assistant