

GAHC010136172024



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

Case No. : Bail Appln./1980/2024

HABIL AHMED AND ANR.
SON OF LATE SUKUR ALI,
RESIDENT OF REGENT PARADISE,
FLAT NO. A3, POLICE STATION- HATIGAON,
GUWAHATI, DISTRICT- KAMRUP(METRO),
ASSAM, PIN- 781028.

2: SIMANTA CHOUDHURY
SON OF SRI KAMINI CHOUDHURY

RESIDENT OF REGENT PARADISE

FLAT NO. 2B
5TH FLOOR

POLICE STATION- HATIGAON

GUWAHATI
DISTRICT- KAMRUP(METRO)

ASSAM
PIN- 781028

VERSUS

THE STATE OF ASSAM
REP BY PP, ASSAM

Advocate for the Petitioner : MR. A LAL

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

29.07.2024

Heard Mr. A. Lal, learned counsel for the petitioners. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor for the State respondent.

2. This application, filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, praying for grant of bail to the accused/petitioners, who have been languishing in jail since 18.06.2024 in connection with Basistha P.S. Case No. 410/2024 registered under Sections 120(B)/ 420/ 468/ 406/ 409/ 471 of the Indian Penal Code, 1860.

3. The Case Diary has been received and I have perused the same.

4. The learned counsel for the petitioner, Mr. Lal, submits that the present petitioners are innocent and not involved in the alleged offence. According to the FIR, the incident occurred in 2017, and since then, no other incidents have occurred. The investigating officer has already collected all the relevant documents required for the investigation. Additionally, it is submitted that a civil matter was previously pending before the Court of the learned Munsiff No. 3, Guwahati, in Title Suit Case No. 332/2007 [***Sri Jagirath Rongson & Anr. vs. Smti. Sumitra Devi Agarwalla & Anr.***], wherein the plaintiffs case was dismissed, and the counter-claim was decreed. He also submitted that the entire case is based on documentary evidence which have already been collected by the IO and hence, further custodial interrogation may not be necessary.

5. He further submitted that the present petitioners were arrested in connection with this case on 08.06.2024 and have been in custody since then. Thus, the investigating officer had sufficient time for custodial interrogation. Accordingly, he submits that further custodial interrogation is not necessary. He also submitted that the petitioners were previously arrested in connection with Hatigaon P.S. Case No. 116/2024 and thus, the total length of detention endured by the petitioners, which is 59 days, and the time they have already spent in custody for the instant case, i.e. 42 days and hence, he prays that they may be granted bail. Furthermore, the petitioners are still ready and willing to cooperate with the investigating officer for further investigation, if bail is granted.

6. In this regard, Mr. Borthakur, learned Additional Public Prosecutor, has submitted that the Case Diary reveals that there are sufficient incriminating materials available against the accused/petitioners. It is revealed that during the investigation, the defendant, Agarwalla's family, in a Title Suit No.332/2007 had stated that they never sold their land to Mr. Nagen Rongson, who was the plaintiff No.2 in the said case, and obtained a decree in their favor in the said civil case. In the same time, Mr. Nagen Rongson also clarified that he never purchased any land from the said Agarwalla's family. However, after losing his Title Suit Case No.332/2007, the petitioners along with other associates approached him, and gave assurance that they will help him to recover the land. They subsequently obtained documents from him under false assurance. They then allegedly prepared a forged sale deed (No. 3052/1989) in collusion with officials at the Sub Registrar's office. He also submitted that the petitioners were earlier arrested in connection with Hatigaon P.S. Case No.116/2024. Thus, he submits that the accused/petitioners are involved in the alleged offence and he

vehemently objected in granting bail to them at this stage

7. Considering the submissions of learned counsels for both sides, and upon perusal of the Case diary, it is seen that the IO has collected several incriminating materials against the accused/petitioners and in the same time, it cannot be denied that they are under custody since 08.06.2024 and IO got sufficient time for their custodial interrogation and hence, considering the length of detention already undergone by the accused/petitioner, and without delving into the merits of the case, I am of the view that the I.O. has got ample opportunity to interrogate the accused/petitioners keeping them in the custody and accordingly, further custodial interrogation of the accused/petitioners seems to be not necessary here in this case.

8. Accordingly, it is provided that on furnishing a bond of Rs. 20,000/- (Rupees twenty thousand) only each with one surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup (M), the accused/petitioners, namely, **Habil Ahmed and Sri Simanta Choudhury**, be enlarged on bail, subject to the following conditions:

- (i) that the petitioners shall make themselves available for interrogation by the Investigating Officer as and when required;
- (ii) that the petitioners 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 them from disclosing such facts to the Court or to any police officer; and
- (iii) that the petitioners shall not leave the jurisdiction of the learned Chief Judicial Magistrate, Kamrup (M), without prior permission.

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

JUDGE

Comparing Assistant