

GAHC010183952024



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

Case No. : AB/2391/2024

RAM KRISHNA SAIKIA
S/O LATE DANDI RAM SAIKIA
VILL- KAMPUR MAJARATI,
P.S. KAMPUR,
DIST. NAGAON, ASSAM,
PIN-782426

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. A M AHMED, B DAS,P. GHOSH,MRS S RAHANA

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 27.09.2024

Heard Mr. A.M. Ahmed, learned counsel for the applicant. Also heard Mr. P.S. Lahkar, learned Addl. Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with Kampur P.S. Case No. 127/2023,

under Sections 120B/420/468/471 of the IPC, this application under Section 482 of BNSS, 2023 has been preferred by the applicant, namely, Ram Krishna Saikia, 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 Diganta Kumar Goswami on 21.07.2023.

4. The gist of allegation made in the FIR dated 21.07.2023 is that the father of the informant, Late Prabhat Ch. Goswami, suffered demise on 24.02.2019 leaving him and other legal heirs. But, unfortunately five Sale Deeds were registered in the Sub-Registrar Office of Kampur after the death of his father by practicing fraud in the name of his father with the help of scribe, witnesses, identifiers of the Sale Deeds, in respect of the land belonging to his father and the purchasers of land were – Krishna Laskar, Krishna Kanta Bora and Padma Kanta Saikia.

5. Mr. Ahmed, learned counsel for the applicant submits that this is the second pre-arrest bail application preferred by the applicant and the first one, being AB No. 3546/2023, was dismissed by this Court, vide order dated 18.10.2023. Mr. Ahmed also submits that while dismissing the earlier pre-arrest bail application, this Court has not considered that two co-accused, namely, Padma Kanta Saikia and Padum Sarma @ Padumi Sarma had already been granted pre-arrest bail in AB No. 3499/2023, and AB No. 3893/2023, respectively, and that the present applicant also stands in the same footing and he is also entitled to get pre-arrest bail on the ground of parity. Mr. Ahmed further submits that after rejection of the earlier pre-arrest bail application, the investigating agency got sufficient time to investigate the case and also it has arrested the main accused, namely, Krishna Laskar, along with Nripen Hazarika and they were also released on bail later on, vide order dated 18.10.2023 and

01.08.2024, respectively, and that the applicant is not involved with the offence alleged and his name has been dragged by his rival parties, and there is no incriminating materials against the applicant and that except drafting the deed, he played no role and therefore, Mr. Ahmed submits that the privilege of pre-arrest bail may be extended to the applicant also.

6. On the other hand, Mr. Lahkar, learned Addl. Public Prosecutor has produced the case diary before this Court and submits that investigation of the case is going on and the I.O. has collected sufficient incriminating materials against the present applicant and besides being a scribe, he also played the role of middleman in execution of the sale deeds, and that the grounds so assigned for filing this second application are also not maintainable and therefore, Mr. Lahkar has contended to dismiss the application.

7. Having heard the submission of learned Advocates of both sides, I have carefully gone through the application and the documents placed on record and also perused the case diary with the assistance of Mr. Lahkar, learned Addl. Public Prosecutor.

8. The case diary indicates that the I.O. has collected sufficient incriminating materials against the applicant and the same was duly reflected in the order dated 18.10.2023, in AB No. 3546/2023. It is, however, a fact that some of the co-accused have already been extended the privilege of pre-arrest bail and some were granted regular bail after their arrest, but, it is well settled that the benefit of pre-arrest bail, on the ground of parity, cannot be extended in a routine manner and it has to be seen what role the applicant has played in commission of the offence and also by the other accused persons.

9. In the given facts and situation and also considering the submissions of learned Advocates of both sides as well as materials collected so far in the case

diary, and the role played by the applicant in commission of the aforesaid offences, this Court is of the view that he is not entitled to the privilege of pre-arrest bail on the ground of parity. Besides, the grounds so assigned for filing this second application is not sound so as to maintain this second application and therefore, the privilege of pre-arrest bail cannot be granted to him at this stage. Accordingly, this application stands dismissed.

10. Case diary be returned.

JUDGE

Comparing Assistant