

GAHC010288162023



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

Case No. : AB/4300/2023

SISIR BISWAS
S/O LATE RANJAN BISWAS
R/O HOUSE NO. 30, SEWALI PATH,
P.O. AND P.S. HATIGAON
DIST. KAMRUP(METRO), ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. R PHUKAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

28.02.2024

Heard Mr. R. Phukan, learned counsel for the applicant and Mr. B. Sharma, learned Additional Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with **Chandmari P.S. Case No. 452/2023**, under Sections 420/406 of the IPC, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicant namely, **Sisir Biswas** for grant of pre-arrest bail.

3. The said case has been registered on the basis of one F.I.R., lodged by one Biswajit Malakar, on 07.12.2023. The essence of allegations made in the FIR is that he purchased a flat, being Flat No. 202, on the 2nd Floor RCC building namely, Subh Enclave, measuring 1400 square feet, from M/S Subham Builders represented by its proprietor Sisir Das, vide registered Sale Deed dated 03.09.2021, being serial No. 16979, Deed No. 13221/2021 and registered the same before the Sub-Registrar Office at Guwahati, for total consideration of Rs. 21,23,000/- and 1,06,150/- as GST amount and after execution of the sale deed, he got possession of the aforesaid flat and put the flat under lock and key and got mutation order in his favour. Thereafter, on 04.12.2023, when he went to the aforesaid flat, he found that the lock of the door was broken and one Lily Choudhury is staying there and immediately he contacted with the applicant and then he came to know that the applicant fraudulently sold the aforesaid flat to Lily Choudhury and he also threatened the informant to harm him, if he enters the Subh Enclave Apartment.

4. Mr. Phukan, learned counsel for the applicant submits that this Court was pleased to grant interim protection to the applicant, vide order dated 22.12.2023, and pursuant to the said order, the applicant had appeared before the IO and also cooperating with the investigating agency and therefore, it is contended to make the interim order dated 22.12.2023, absolute in the same terms and conditions. Mr. Phukan referring to the additional affidavit filed by the applicant submits that the applicant is ready to provide another flat to the informant at the same price, but the informant has been demanding twice the price of the earlier flat. Mr. Phukan also referring to the Paragraph No. 6 of the said affidavit submits that during pendency of this anticipatory bail application, the matter has been settled amicably between the applicant and the informant, but no document has been enclosed in this regard.

5. On the other hand Mr. Sharma, learned Additional Public Prosecutor by

producing the case diary submits that the IO has collected sufficient incriminating materials against the accused. Mr. Barua further submits that the investigation is still going on and that the offence is serious in nature and therefore, it is contended to dismiss the petition.

6. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition as well as the documents placed on record and also perused the Case Diary with the assistance of learned Additional Public Prosecutor.

7. The case diary indicates that the IO has collected sufficient incriminating materials against the applicant. Further, it appears that the investigation is still going on and therefore, this Court is of the view that the custodial interrogation of the applicant seems to be indispensable.

8. In view of above as well as the stage of investigation, this Court is of the considered opinion that this is not a fit case where the privilege of pre-arrest bail can be granted to the applicant. Accordingly, the petition stands **dismissed** and the interim order dated 22.12.2023, stands **vacated**.

9. The case diary be returned.

JUDGE

Comparing Assistant