

GAHC010030922024



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

Case No. : Bail Appln./420/2024

SUMAN AHMED
S/O LATE FAZIR AHMED
RESIDENT OF HOUSE NO. 12, DR. ZAKIR HUSSIN ROAD, SARUMOTIRA, PS
DISPUR, DIST KAMRUP M ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP ASSAM

Advocate for the Petitioner : MR. D K BAIDYA

Advocate for the Respondent : PP, ASSAM

**BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN**

ORDER

16.02.2024

Heard Mr. A.M. Bora, learned Senior counsel assisted by Mr. D.K. Baidya, learned counsel for the accused and also heard Ms. A. Begum, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application, under section 439 Cr.P.C. is preferred by accused, namely, Suman Ahmed, who has been languishing in jail hazot since 09.02.2024, in connection with Cyber P.S. Case No.12/2023, under Section 120(B)/419/420 IPC, read with Section 66(C)/66(D) of the Information Technology Act and added Section 409/468/471 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 Papu Gogoi, ACS, Circle Officer, Dispur Revenue Circle, on 02.11.2023. The essence of allegation made in the aforesaid FIR is that it has came to the notice of the informant that a mutation order was passed online in Dharitree Portal on 05.10.2023 and Case No.MET/DIS/2022-23/96042/OMUT against a Deed, bearing Sl.No.6268, dated 31.12.1995, wherein no offline case record of any notice was issued or order so passed was found to be available in the office of the informant.

4. Mr. Bora, learned Senior counsel for the accused, submits that the accused was arrested on 09.02.2024 and since then, he has been languishing in jail hazot and the applicant is innocent and he is no way involved with the offence alleged in the FIR and he was arrested only on the statement made by one of the co-accused, namely, Tapash Kr. Choudhury and the accused is not aware of as to who Tapash Kr. Choudhury is and that he is ready to cooperate with the investigating agency and he is not a public servant and as such, Section 409 IPC is not attracted here in this case and therefore, it is contended to allow the petition.

5. On the other hand, Ms. A. Begum, learned Additional Public Prosecutor, Assam, has produced the case diary before this Court and submits that the I.O. has achieved substantial progress in the investigation of this case and that the accused was arrested on the basis of the statement made by Tapash Kr. Choudhury, who is a land broker. However, Ms. Begum fairly submits that in the statement of accused Tapash Kr. Choudhury, he has not whispered the name of the present accused. But she opposed the petition on the ground that the investigation is still going on.

6. Having heard the submission of learned Advocates for 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 Ms. Begum, learned Additional P.P.

7. It appears that the accused was arrested on 09.02.2024 and since then he has been languishing in jail hazot. Further, it appears that the I.O. has achieved some progress in the investigation of this case, though it is still going on. In view of the materials collected so far in the case diary, this Court is of the view that a *prima facie* case for granting the privilege of bail to the accused is made out and 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 Chief Judicial Magistrate, Kamrup(M), the accused, namely, Suman Ahmed, 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