

GAHC010004832024



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

Case No. : AB/78/2024

UMA SHANKAR DEY SARKAR
S/O LATE SUKHENDU KUMAR DEY SARKAR,
R/O SUBASONI ROAD, P.O., P.S. AND DIST. TINSUKIA, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. BHASKAR DUTTA, SENIOR ADVOCATE

Advocate for the Respondent : PP, ASSAM

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

ORDER

05.02.2024

Heard Mr. S. Deka, learned counsel for the applicant and also heard Mr. P.S. Lahkar, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application, under Section 438 Cr.P.C. is preferred by the applicant, namely, Uma Sankar Dey Sarkar, who has been apprehending arrest in connection with Tinsukia

P.S. Case No.665/2023, under Section 120(B)/420/468/471 IPC, 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 Rujena Begum @ Rujena Ahmed and Julena Begum on 12.12.2023. The essence of allegation made in the aforesaid FIR is that on 15.11.2023 they came to know that some unknown persons illegally trespass into their land measuring 1 bigha 4 katha 0 lecha covered by Dag No.939(new), 163(old) and Periodic Patta No.602(new), 174(old), situated at Lohari Kachari Gaon under Tinsukia Mouza and they came to know that one Nazlin Begum, Mrs. Shahnaz Banu, Mr. Salim Mahammed and Najima Begum got their names mutated against the said plot of land and they also came to know that Uma Sankar Dey Sarkar has fraudulently executed one sale deed on the basis of one irrevocable general power of attorney, bearing Deed No.210, Sl. No.1030 for the year 2023.

4. Mr. Deka, learned counsel for the applicant submits that one civil suit, being Title Suit No.98/2023 is pending between the informants and Uma Sankar Dey Sarkar and Nazlin Begum, Mrs. Shahnaz Banu, Mr. Salim Mahammed and Najima Begum and that there was an agreement for sale between the informants and the present applicant and pursuant to the said agreement the informants have received a sum of ₹ 31,10,950/- from Uma Sankar Dey Sarkar and that the applicant is innocent and he is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, Mr. P.S. Lahkar, learned Additional Public Prosecutor, Assam, submits that the I.O. has collected sufficient incriminating materials against the applicant and the I.O. has also collected xerox copy of the irrevocable general power of attorney and the same indicates that there is dissimilarity in the signature put by the informants in the FIR and in the irrevocable general power of attorney and that the investigation is going on and enlarging the applicant on pre-arrest bail at this stage will misdirect the same and therefore, it is contended to dismiss the petition.

6. Having heard the submission of learned Advocates of 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 Mr. Lahkar, learned Additional P.P.
7. The case diary indicates that the I.O. has collected sufficient incriminating materials against the present applicant. The alleged irrevocable general power of attorney has already been collected by the I.O. and the informants have denied their signatures in the aforementioned power of attorney. The investigation is going on and at this stage it cannot be said that custodial interrogation of the applicant is not required in the interest of investigation. His custodial interrogation appears to be indispensable in the interest of investigation and accordingly, this Court is inclined to dismiss the petition.
8. Case diary be returned.

**Sd/- Robin Phukan
JUDGE**

Comparing Assistant