

GAHC010050572022



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

Case No. : Bail Appln./578/2022

ABUL KALAM AHAD MAZUMDER
S/O LATE ABDUL KADIR MAZUMDER
A RESIDENT OF BERENGA, PART-II, P.O. AND P.S. SILCHAR, DIST. CACHAR,
ASSAM

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE LEARNED PP, ASSAM

Advocate for the Petitioner : MR. A R BHUYAN

Advocate for the Respondent : PP, ASSAM

BEFORE

HON'BLE MRS. JUSTICE RUMI KUMARI PHUKAN
ORDER

16.03.2022

By this application under Section 439 CrPC, petitioner, namely, Abul Kalam Ahad Mazumder, who was arrested on 20.02.2022, has prayed for granting him regular bail, in connection with in connection with Silchar PS Case No. 3720/2021, under Sections 120(B)/420/468/471 IPC.

Heard the learned counsel for both the sides.

I have also gone through the Case Diary

The brief facts of the case are that, on 28.10.2021, one Titu Mazumder lodged an FIR with Silchar Police Station, *inter alia*, alleging that his brother Pappu Mazumder and some other accused persons by hatching a criminal conspiracy among themselves, prepared a forged land sale deed of his paternal property by enticing his brother. Thereafter, the accused persons on the strength of forged deed grabbed his land by constructing boundary bricks wall.

During investigation, it reveals that some accused persons prepared a forged land sale permission order from the Office of the Deputy Commissioner Cachar, in connivance with the staff (dealing assistant) of the said office, and thereby perpetrated the alleged crime. A written requisition was given to the Office of the Deputy Commissioner, Cachar, Silchar, for furnishing all original records pertaining to issuance of permission. But, it was informed that the original file was not traceable. However, it reveals that the FIR named persons are involved in preparing the forged land sale order from the Office of the Deputy Commissioner Cachar.

The *prima facie* evidence collected from various documents furnished by Office of Sub-Registrar, Settlement Office, Silchar, Silchar Development Office etc. reflected that there is a discrepancy as regards the total area of land to be sold with the Office of the Deputy Commissioner, Cachar, Silchar. Hence, it has been established through *prima facie* evidence that the forged document pertaining to issuance of land sale order of land in question was prepared in the Office of the Deputy Commissioner, Cachar, Silchar.

Documents which have been produced by the Settlement Office, reveal that a permission for selling of total land was only 6 Katha, whereas total 16 kathas of land was shown on the permission order issued from the office of the Deputy Commissioner.

One of the suspected accused Pronoy Chakraborty, Senior Assistant of the said office, who is attached with issuing land NOC permission related branch, along with one, Nasir Ahmed Barbhuiya (deed writer) have hobnobbing and connivance with other suspected accused persons in hatching conspiracy to prepare the forged NOC for the land in

question. It has come to light that the accused Nasir Ahmed Barbhuiya with the help of the Senior Assistant, Pronoy Chakroborty and one Raju Seal (all staffs of NOC Branch, DC Office), has prepared and received the final land document (in question) in the name of the petitioner, Abul Kalam Ahad Mazumder, vide certificate No. IN-AS19211587239116T from Sr. Sub Registrar Office (Reply from Sr. Sub-Registrar enclosed herewith).

The Investigating Officer in his report, has pointed out that as the concerned file has not yet been produced by the Office of the Deputy Commissioner Cachar, for seizure of the documents, with a plea that the file is misplaced, there is possibility of tampering/concealing the required documents/records of the file by the accused persons, by using their official capacity. Hence, for further investigation of the matter and to unearth identity of other accomplices, who are the perpetrators of the crime and also to recover the concerned file reportedly not traceable in the Office of the Deputy Commissioner, Cachar, Silchar and the original deed, further custodial detention of the accused petitioner is necessary.

Considering all entirety of the matter, the bail application of the petitioner is hereby rejected at this stage.

Return the Case Diary.

JUDGE

Comparing Assistant