

Misc.(Bail) Case No. 454/2021
O R D E R

29-11-2021

Seen the petition No. 1429/21, filed by one Suraj Jamal Hussain, seeking bail for accused Diljar Hussain, in connection with Jamuguri PS Case No. 189/21, u/s 406/379/420 of IPC.

I have heard the learned lawyer appearing for both sides. I have also carefully gone through the contents of the case diary received today.

The allegation in the FIR is that on 03-09-2021 the Fokeland bearing No.Excavator SY 210C6C2SL NO. 21 SE21A01/208 was handed over to one Dipa Upadhaya under an agreement which stand in the name of her brother-in-law Rambal Jadav of Jharkhand but accused persons allegedly took the said to Arunachal Pradesh and kept it in India China Border. It is learnt that accused sold the same to someone else. Hence, the case.

Learned counsel appearing for accused submitted that accused persons used the Excavator under an agreement. They took the same for a period of two months but before completion of the said period of two months, this FIR was lodged alleging misappropriation and fraud which is not true. Therefore, accused persons cannot be held guilty of commission of offence u/s 406/379/420 of IPC as alleged.

On the other hand, learned counsel for the state contended that there is sufficient materials in the case diary, as such accused do not deserve bail.

Having heard the learned lawyers appearing for both sides and on perusal of the case diary, it transpires that accused Diljar Hussain and one Md. Abdul Rahman took the excavator from informant Dipa Upadhaya with the knowledge and consent of the owner that they will use the same in Assam but subsequently, accused Diljar Hussain entered into an agreement with one Tapang Komut and handed over the same to him at a consideration of Rs.5,20,000/- and

took an advance of Rs. 2,60,000/-. As it appears the owner of the excavator was not a party to the said agreement.

Therefore, it appears that accused has by playing fraud cheated the informant and took the excavator and did not return the same in spite of repeated requests.

Therefore, having considered the material facts in the case diary, this court do not consider it a fit case to grant bail to accused Diljar Hussain.

In the result, the bail petition stands rejected.

Let the case diary be returned along with a copy of this order.

Accordingly, this bail petition is disposed off.

(C.B. Gogoi)
Sessions Judge,
Sonitpur, Tezpur.