

GAHC010011182023



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

Case No. : Bail Appln./246/2023

NAJIR HUSSAIN AND 3 ORS
S/O LATE SAMIR UDDIN
R/O VILL- LENGRI BORI
P.O. LOCHANABARI, P.S. MOIRABARI
DIST. MORIGAON, ASSAM

2: ABDUL SATTAR
S/O LATE ARSHAF ALI
R/O VILL- LENGRI BORI
P.O. LOCHANABARI
P.S. MOIRABARI
DIST. MORIGAON
ASSAM

3: SIDDIQUE ALI
S/O LATE ARSHAF ALI
R/O VILL- GARIABORI GAON
P.O. LOCHANABARI
P.S. MOIRABARI
DIST. MORIGAON
ASSAM

4: AMIR UDDIN
S/O LATE SABED ALI
R/O VILL- DURABANDHI
P.O. LOCHANABARI
P.S. MOIRABARI
DIST. MORIGAON
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. R ALI

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER**

23.01.2023

Heard Mr. R. Ali, learned counsel for the accused and Mr. D. Das, learned Additional Public Prosecutor for the State respondent.

2. This second application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused, namely, Najir Hussain; Abdul Sattar; Siddique Ali; and Amir Uddin, who have been languishing in jail hazot, in connection with the Moirabari P.S. Case No. 230/2022, under Sections 120[B]/201/403/408/409/417/468 of the IPC read with section 7 of the EC Act, for granting bail.

3. The said case has been registered on the basis of one FIR lodged by Assistant Director of FCS & CA, Morigaon, on 05.12.2022. The gist of allegation against the accused persons is that they being the Fair Price Shop Dealers with some other associates of Fair Price Shop Dealers and with the secretary M/S Lochonabori SS Ltd. misappropriated PMGKAY Rice depriving the beneficiaries for the month of August and September, 2022.

4. Mr. Ali, learned counsel for the accused submits that the accused were arrested on 07.12.2022 and since then they have been languishing in jail hazoot for last 47 days and this second bail application is preferred on the ground of their length of detention. Further, it is submitted that some of the accused persons have been granted privilege of pre-arrest bail and some of them are also granted regular bail by the learned Sessions Judge, Morigaon and that the present accused persons are also stands in the same footing, and therefore, it is contended to allow the petition, maintaining pariety.

5. On the other hand, Mr. Das, learned Additional Public Prosecutor has produced the case diary before this Court and submits that the I.O. has collected some materials against the accused, and therefore, he has objection in enlarging the accused on bail. However, a pointed query of this court, Mr. Das submits that the investigation of the case has almost been completed and the relevant documents have already been seized.

7. Having heard the submissions 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. Das, learned Additional Public Prosecutor.

7. In view of materials so far collected in the case diary and also in view of the period of detention as well as the stage of investigation, this court is of the

view that further custodial detention of the accused persons in the interest of investigation seems to be unwarranted here in this case. Accordingly, it is provided that on furnishing a bond of Rs. 25,000/- each, with one surety of like amount to the satisfaction of the learned CJM, Morigaon, the accused persons be enlarged on bail.

8. In terms of above, this bail application stands disposed of.

9. The case diary be returned

JUDGE

Comparing Assistant