

GAHC010019472023



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

Case No. : AB/271/2023

HABIBAR RAHMAN
S/O UTTAM ALI
R/O VILL- NARAYANPUR
P.S. MUKALMUA
DIST. NALBARI, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR H R A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 09.02.2023

Heard Mr. H. R. A. Choudhury, learned senior counsel, assisted by Mr. I. A. Hazarika, learned counsel for the petitioner as well as Mr. R. J. Baruah, learned Additional Public Prosecutor for the State of Assam.

2. The petitioner who is the Secretary of Madhyam Barkhetri Bahumukhi Samabai Samity (MBBSS) Ltd., and is apprehending arrest in connection with BI(EO) P. S. Case No. 1/2023 under sections 120(B)/420/406 of the IPC read with Section 7 of E.C. Act, has filed this application under section 438 Cr.P.C. for pre-arrest bail.
3. The learned APP has produced the case diary and opposed the prayer for bail.
4. The case diary reveals sufficient incriminating material against the petitioner of having short stock of the allotted rice in PMGKAY scheme and there was excess stock in respect of rice allotted under AAY Scheme.
5. It is projected by the learned senior counsel for the petitioner that pursuant to the notice issued to the petitioner to Show Cause, he has explained the reason for the discrepancy in the stock of rice with the cooperative society.
6. The case diary also reveals that the matter is being investigated by the IO.
7. In view of the discrepancy in the stock of rice by the petitioner, this Court is of the considered opinion that custodial interrogation of the petitioner may not be necessary and the Court is inclined to grant pre-arrest bail to the petitioner, namely, Habibar Rahman, by providing that in the event of his arrest in connection with BI(EO) P. S. Case No. 1/2023, the petitioner shall be released on bail on furnishing bail bond of Rs.50,000/- with one solvent surety of like amount to the satisfaction of the arresting officer.

The bail is granted on the following conditions:

1. The petitioner shall make himself available to the police or any

other investigating agency or Court in the present case as and when required.

2. The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to Court or to any police officer or tamper with the evidence. He shall not, in any manner, try to overawe or influence or intimidate the prosecution witness.
3. The petitioner shall not obstruct the smooth progress of the investigation/trial.
4. The petitioner shall not misuse his liberty in any manner.
5. The petitioner shall appear before the I/O within seven days from today and he shall continue to appear till his appearance is dispensed with or complaint is filed, whichever is earlier.

Return the case diary.

The bail application stands disposed of.

JUDGE

Comparing Assistant