

GAHC010019822023



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

Case No. : AB/300/2023

PINKU DAS
SON OF BUDHESWAR DAS,
RESIDENT OF KABARU GAON,
P.O., P.S. AND DIST.- GOLAGHAT,
ASSAM.

VERSUS

THE STATE OF ASSAM
REP. BY PP, ASSAM.

Advocate for the Petitioner : MR. K BORUAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

13.03.2023

Heard Mr. K. Baruah, learned counsel for the petitioner and Mr. B.B. Gogoi, learned Addl. PP for the State.

2. This anticipatory bail petition is filed by the petitioner, namely **Sri Pinku**

Das, apprehending arrest in connection with the FIR dated 13.10.2022 which is registered as **Jamuguri P.S. Case No. 08/2022**.

3. By the FIR dated 13.10.2022 lodged by the informant one Sri Raju Borgohain who is the Head Constable in Jamuguri Police Station, Dist: Golaghat, it was alleged that several cartons of liquor which were stocked in the residence of one Sri Nipu Sonowal, Son of Late Konbhai Sonowal resident of Bakultal Gaon under jurisdiction of Jamuguri Police Station, was seized from a room situated in the back side of the veranda of his house. The said Sri Nipu Sonowal, however, escaped taking cover of the darkness at the time of the raid by the police. The said FIR was registered as Jamuguri P.S. Case No. 08/2022 under Section 379 of the IPC read with Section 53(1)(a) of the Assam Excise Amendment Act, 2018.

4. It is the submission of the learned counsel for the petitioner that the petitioner is a businessman by occupation and he earns his livelihood by plying a truck as a transport vehicle by engaging professional driver. The petitioner has filed this anticipatory bail in apprehending arrest in connection with the said Jamuguri P.S. Case No. 08/2022 as the police personnel had visited his residence and enquired about his whereabouts in connection with this case. The learned counsel for the petitioner submits that the petitioner is no way connected with the offences alleged and therefore, he is apprehensive that he will be arrested by the police for no reason. The learned counsel for the petitioner also submits that the said vehicle bearing Registration No. AS01PC0136 was also seized by the police on 02.01.2023 only on suspicion that the said vehicle was used for the alleged offence and consequently the petitioner has been asked to appear before the police station in connection with

the aforesaid case as well as the seizure of his vehicle. The learned counsel for the petitioner submits that by order dated 24.01.2023 passed in B.A. No. 267/2023, one of the accused person, namely, Kamaljit Singha who was arrested on 26.12.2022 in connection with the same case i.e., Jamuguri P.S. Case No. 08/2022 under Section 379 of the IPC read with Section 53(1)(a) of the Assam Excise Amendment Act, 2018, this Court had granted bail to the said petitioner. Accordingly, the petitioner prays for grant of anticipatory bail by way of the present petition.

5. By order dated 15.02.2023, the case diary was directed to be produced. Today when the matter was called up, the learned Addl. Public Prosecutor has produced the case diary.

6. It is submitted by the learned Addl. PP that the matter is under investigation and therefore, custodial interrogation of the petitioner, being the owner of the vehicle will be necessary and therefore, he submits that at this stage anticipatory bail ought not to be granted as the petitioner may not co-operate with the investigation which is presently being carried on by the police in connection with Jamuguri P.S. Case No. 08/2022.

7. The case diary received has been duly perused. Pleadings on record have also been perused.

8. It is seen that the police has made some arrests in respect of certain persons suspected to be involved in connection with the offences alleged in respect of Jamuguri P.S. Case No. 08/2022.

9. The statements of the person from whose custody the illicit liquor cartoons have been recovered have also been perused along with the statements of the other witnesses/accused.

10. From the order dated 04.01.2023 passed by the Addl. Chief Judicial Magistrate, Golaghat which is a part of the case diary, it is seen that the vehicle of the petitioner had met with an accident under the jurisdiction of Raha Police Station and the same is detained at present in the Raha Police Station.

11. After hearing the learned counsels for the parties as well as upon perusal of the pleadings and the case diary, it is seen that the investigation has progressed in the matter. However, charge-sheet has not yet been filed. The illicit liquor which was seized from the residence of Sri Nipu Sonowal have already been recovered. The vehicle bearing Registration No. AS01PC0136 of which the petitioner claims to be the owner was also seized by the Raha Police Station. It is seen that although the investigation has progressed but charge-sheet has not been filed yet. After perusal of the case diary, this Court finds no incriminating materials so far against the petitioner to arrive at a conclusion that if the petitioner is granted anticipatory bail it will interfere or hamper with the progress of the investigation of the case. There is also no material in the case diary against the petitioner that he had issued any threat or attempted to influence any of the witnesses who are examined or any other accused persons connected with the instant case.

12. In that view of the matter and also taking note of the order dated 24.01.2023 passed in B.A. No. 267/2023 whereby one of the accused namely Kamaljit Singha was granted bail, this Court is of the considered opinion that the prayer made by the petitioner can be granted.

13. In the event of arrest of the petitioner in connection with the Jamuguri P.S. Case No. 08/2022, the petitioner, named above, shall be released on a bail bond of **Rs.25,000/- (Rupees Twenty Five Thousand Only)** with one local surety of like amount to the satisfaction of the arresting authority subject, of course, to the following conditions:

- (i) That the petitioner shall appear before the Investigating Officer within 10 days from today and co-operate in the investigation. Further, he will continue to appear before the Investigating Officer once every month till the completion of the investigation.
- (ii) That 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 either to the Court or to any police officer; and
- (iii) That the petitioner shall not hamper or tamper with the investigation in any manner

14. In the event, it is found that the petitioner is involved in any other similar offences or he has not abided by the conditions as directed above, the Investigating Officer shall be at liberty to seek cancellation of the bail granted to the petitioner

15. With the above directions, the present anticipatory bail application is allowed and is accordingly disposed of. Case diary is returned to the learned Addl. Public Prosecutor, Assam.

JUDGE

Comparing Assistant