

GAHC010026102023



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

Case No. : AB/379/2023

AMRIT KUMAR BURAGOHAIN
S/O LATE BHUBAN CHANDRA BURAGOHAIN, R/O HOUSE NO. 56, RATAN
DEEWAN ROAD, ULUBARI, P.O.-ULUBARI, P.S.-PALTANBAZAR, DIST-
KAMRUP (M), ASSAM, PIN-781038

VERSUS

THE UNION OF INDIA
REPRESENTED BY THE ASSISTANT SOLICITOR GENERAL OF INDIA

Advocate for the Petitioner : MR. I H SAIKIA

Advocate for the Respondent : DY.S.G.I.

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

15.03.2023

Heard Mr. I.H. Saikia, learned counsel for the petitioner and Mr. B. Sarma,
learned CGC for the respondent.

2. This application has been filed by the petitioner namely, **Amrit Kumar Buragohain** apprehending arrest in connection with RPF/Post/KQ's Case No. 06/2022 under Section 3(a) RP(UP) Act.

3. The petitioner is a Railway Contractor and he had executed certain works by the Railway department vide work order dated 31.08.2018. It is submitted by the learned counsel for the petitioner that certain replacement works were required to be carried out at the site and as per verbal instructions by the Railway authorities, the same were replaced by the petitioner with the help of his office staff. The items which were replaced was a Measuring Gauge which was damaged due to vehicular accident. The broken pieces of the Measuring Gauge which was lying there were considered to be scrap materials and was therefore, cleared by the employees of the petitioner. The same was done at the instructions issued by the site supervisor of the Railway to the staff of the petitioner. While the same in the process of being executed, the Railway police persons appeared and arrested the site Manager along with the driver of the vehicle. Both of them have already been released on bail by the competent Court. The petitioner submits that he is no way connected with the allegations made in the FIR/complained by the Railway Police. He is a respectable contractor executing various contract works with the Railway authorities.

However, he was surprised to have received a summon by the Railway Police authorities vide summons dated 04.02.2023. He was summoned to appear before the authorities failing which, as per the summons, he was liable for prosecution under Section 174 IPC. The petitioner upon receipt of the said summons, apprehended arrest and has, therefore, approached this Court by filing the instant anticipatory bail petition

4. By the FIR dated 20.08.2022 lodged by the informant namely one Vikram, who is the Inspector, RPF/KYQ, it was alleged that the certain Railway materials were picked up from the platform area by a vehicle having registration No. AS-01CC-5179 from the Kamakhya Railway Station yard. The informant had received information that these items will be taken from Kamakhya Railways Station Yard to places in Gorchuk/Boragaon for disposing of. The informant along with staff, on the basis of the information received, upon accosting the said vehicle as well as the driver, found that the driver of the vehicle could not produce any supporting documents in favour of lawful possession/movement of Railway materials. The following materials were recovered from the said vehicle:

1. RSJ-250mm X 125mm X 5.75 RM, 2. RSJ- 250mm X 6.10 RM, 3. RSJ – 250mm X 125mm X 4.20 RM, 4. RSJ- 250mm X 125mm X 3.85 RM, 5. RSJ- 250mm X 125mm X 2.70 RM, 6. RSJ- 250mm X 125mm X 1.60 RM, 7. RSJ- 250mm X 125mm X 3.23 RM,

8. RSJ- 250mm X 125mm X 4.50 RM= total 31.93 RM= 1190.99 kgs, 9. RJS-200mm X 100mm X 2.20 RM, 10. RJS-200mm X 100mm X 2.20 RNm 11. RJS-200mm X 100mm X 2.38 RM, 12. RJS-200 mm X100mm X 2.17 RM, 13. RJS-200mm X 100mm X 1.83 RM 14. RHS-200mm X 100mm X 1.60 RM= total 12.38 RM= 314.45 kgs.

Accordingly, the case was registered being case No. 06/2022 under Section 3(a) RP(UP) Act on the basis of the said complaint.

5. This Court vide order dated 08.02.2023 granted interim bail to the petitioner and directed the learned CGC to produce the case diary.

6. Today when the matter is called up, the learned CGC has produced the case diary.

7. The learned counsel for the parties have been heard. Pleadings on record have been carefully perused.

8. Upon due perusal of the case diary, it is seen that no incriminating materials are found against the petitioner at this stage of investigations. It is seen that shifting of the Railway materials from the Railway Yard were undertaken without proper information to the site supervisor and other Railway staff connected to the said repair work. Accordingly this Court is of the view that

the interim bail granted vide order dated 08.02.2023 can be made absolute.

9. The order dated 08.02.2023 is, therefore, made absolute on the same conditions on which the interim bail vide order dated 08.02.2023 was granted.

10 Any violation of these conditions, if brought to the notice of the Court, may entail recall/cancellation of the anticipatory bail granted.

11. In terms of the above, the anticipatory bail application is allowed and disposed of.

12. Return the case diary.

JUDGE

Comparing Assistant