

GAHC010073322023



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

Case No. : AB/1258/2023

PHUL KUMAR SARKAR
S/O SADHAN SARKAR
R/O ASHWINI BISWAS PARA
BAMUTIA RANGUTIA, P.S. LAFUNGA
DIST. WEST TRIPURA, TRIPURA-799211

VERSUS

THE UNION OF INDIA
REP. BY THE SPL. PP, NCB

Advocate for the Petitioner : MR. K K HANDIQUE

Advocate for the Respondent : SC, NCB

BEFORE
HON'BLE MRS. JUSTICE MALASRI NANDI
ORDER

19.06.2023

Heard Mr K K Handique, learned counsel appearing for the petitioner and S C Keyal, learned Standing Counsel, NCB, appearing on behalf of the respondent.

2. By this application filed under Section 438 CrPC, the petitioner, Phul Kumar Sarkar, has sought for pre-arrest bail, who is apprehending arrest in connection with

NCB Case No. 01/2023, under Sections 21(c)/29 of the NDPS Act, 1985.

3. The brief facts of the case is that on receipt of an information from a reliable source, the Intelligence Officer of NCB, Guwahati Zonal Unit, along with the team of NCB Guwahati, who was authorized for search, seizure and arrest, vide Office Order No. 04/03/NCB/GHY/OO-ZD/09/Vol-II/01 dated 01.01.2023, on 02.01.2023, at around 02:00 hours, intercepted the truck bearing No. TR01 AU 1771, along with one Ranjit Singh, from whom the Registration Certificate of the vehicle was recovered, wherein the name of the petitioner, i.e., Phul Kumar Sarkar was mentioned as the owner of the truck and on making search, 6483 bottles of Phensedyl Codeine based cough syrup were recovered and seized by the NCB team, along with the truck. Thereafter, a case being NCB Case No. 01/2023 was registered under Section's 21(c)/29 of the NDPS Act, 1985. Later on, one Pramod Yadav @ Tinku was also found involved in the case and both Ranjit Singh and Pramod Yadav @ Tinku were arrested in connection with the case.

3. It is submitted by the learned counsel for the petitioner that the petitioner is the registered owner of the aforesaid truck bearing registration No. TR-01-AU-1771. The petitioner was served notice under Section 67 (C) of the NDPS Act, directing him to appear before the NCB for the investigation of the matter. Accordingly, as such the petitioner is apprehending his arrest upon his appearance before the NCB in connection with the instant case and therefore, has preferred the present bail application under Section 438 CrPC.

4. On the other hand, referring to the objection report filed on behalf of the NCB in connection with this bail application, learned Standing Counsel, NCB has submitted that though notices under Section 67 (C) of the NDPS Act were served upon the petitioner on four occasions, but he has not appeared before the Investigating Officer, NCB, till date and thereby, has not cooperated in the investigation of the case.

5. It is further submitted by the learned Standing Counsel that as a huge quantity, i.e., 6483 bottles of codeine based syrup were recovered from a special cavity made in the

truck bearing Registration No. TR01 AU 1771, which belongs to the petitioner, and that the seized contraband is of commercial quantity, his statement needs to be recorded and his role is also required to be verified in the instant case. He also submits that the final complaint of the case shall be filed within the stipulated time and if the anticipatory bail is granted to the accused petitioner, then there is a possibility that the accused may jump bail and the petitioner may also hamper with the investigation process. So, he submits that considering the gravity of the offence and severity of the punishment prescribed in the NDPS Act, 1985, the bail prayer of the accused petitioner may not be considered.

6. I have heard the submissions made by the learned counsel for both the parties. I have perused the record, along with the document annexed and have also gone through the objection report.

7. Considering the severity of the offence and the fact that the seized contraband is of commercial quantity, this Court is of the opinion that custodial interrogation of the petitioner would be necessary. Accordingly, the bail application stands rejected.

9. With the aforesaid observations, this Anticipatory Bail Application stands disposed of.

JUDGE

Comparing Assistant