

GAHC010081132023



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

Case No. : Bail Appln./1352/2023

DEEPAK KUMAR SAH AND ANR.
S/O CHANDESHWAR SAH BY FAITH AND RELIGION HINDU BY
PROFESSION DRIVER, R/O HOUSE NO. 4 B T ROAD MANIPURI BASTI P.S
PALTANBAZAR KAMRUP M GUWAHATI 8 ASSAM AND PERMANENT R/O
VILL. BENIPATTA P.O. AND P.S BENIPATTY DIST. MADHUBANI BIHAR

2: AKHILESH KUMAR MAHTA
S/O ASHOK MAHTA BY FAITH AND RELIGION HINDU BY PROFFESION
HANDYMAN HELPER PERMANENT R/O VILL. BENIPATTA P.O. AND P.S
BENIPATTY DIST. MADHUBANI BIHAR AND PRESENTLY RESIDING AT B T
ROAD MANIPURI BASTI P.S. PALTAN BAZAR KAMRUP M GUWAHATI 8
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. V N UPADHYAY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR
ORDER

Date : 04.05.2023

Heard Ms. P. Mishra, learned counsel appearing for the accused petitioners as well as Mr. R. J. Baruah, learned Addl. P.P., Assam appearing for the State respondent.

By this petition under Section 439 Cr.P.C., the accused-petitioners, namely, **1. Sri**

Deepak Kumar Sah, 2. Akhilesh Kumar Mahta, have prayed for grant of bail in connection with **Basistha P.S. Case No. 190/2023** under Sections **120B/379** of the IPC r/w Section 20(1)(2) of the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce Production, Supply and Distribution) Act, 2003.

The case diary, as called for, is placed before the Court.

The accused petitioners have been in judicial custody since 05.04.2023, i.e. for 30 days.

The matter relates to recovery and seizure of huge quantity of foreign cigarettes from the possession of the accused petitioners.

On perusal of the case diary, it appears that there is prima facie sufficient incriminating material against the accused petitioner subject, of course, to final outcome in investigation. The owner of the seized foreign origin cigarettes, which were purported to be stolen property, is yet to be identified.

Therefore, having considered the facts and circumstances as emerged from the case diary and the length of detention in judicial custody, this Court is of the considered opinion that further continuation of detention of the accused in the interest of investigation is not warranted.

Accordingly, it is provided that each of the accused petitioners, named above, shall be released on bail of **Rs. 40,000/-** with one surety of like amount to the satisfaction of the **learned Chief Judicial Magistrate, Kamrup (M) at Guwahati** subject to the following conditions-

- i) That the accused petitioners shall cooperate with the Investigating Officer as and when required; and

- ii) That the accused petitioners 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 the Police Officer or the Court;
- iii) That the accused petitioners shall refrain from committing any similar offences in future, of which they are suspected of commission.

Return the case diary.

This disposes of the bail application.

JUDGE

Comparing Assistant