

GAHC010083402023



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

Case No. : AB/1425/2023

SANG HOON LEE
SON OF OKE KUNE LEE
R/O R62/1 HUMAYUNPUR
SAFDARJUNG ENCLAVE, NEW DELHI-110029.

VERSUS

THE STATE OF ASSAM AND ANR.
REP. BY THE PP, ASSAM

2:DEPUTY SUPERINTENDENT OF EXCISE
KAMRUP METRO (WEST)
GUWAHATI PIN-78103

Advocate for the Petitioner : MR. N J KHATANIAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 18.05.2023

Heard Mr. Z. Kamar, learned Senior counsel, assisted by Mr. N. J. Khataniar, learned counsel for the petitioner. Also heard Mr. M. Goswami, learned Standing Counsel, State Excise Department, for the respondent No.2.

2. The petitioner, namely, Sang Hoon Lee, who is apprehending arrest in connection with Excise Case No. CM/EX-01/2023 under Section 53(1)(a) of the Assam Excise (Amendment Act), 2018, is seeking pre-arrest bail under section 438 Cr.P.C.

3. The learned CGC has produced the case diary and has opposed the prayer for bail.

4. It may be mentioned that by order dated 27.04.2023, this Court had granted the privilege of interim pre-arrest bail to the petitioner.

5. Mr. Z. Kamar, learned Sr. counsel for the petitioner, has submitted that the stock of 30 cartoons of Korean liquor were recovered and seized from his restaurant, which was being run by the employees of his Company and that the seizure was not made from his possession. It is submitted that the petitioner has been co-operating in investigation and moreover, the petitioner has not violated any conditions of the interim pre-arrest bail order, hence, it is prayed that the interim pre-arrest bail may be made absolute.

6. On perusal of the case diary, it appears that there are sufficient implicating materials against the petitioner of serving liquor in his restaurant without having any 'ON' excise licence and that no documents could be shown that the alleged Korean liquor was legally imported.

7. However, considering the fact that as per the interim pre- arrest bail granted earlier, the petitioner has appeared before the Investigating Officer and there is no allegation against the petitioner of having violated any of the conditions of the interim pre-arrest bail, the Court is inclined to make the interim pre-arrest bail order dated 27.04.2023 absolute on the same terms, except condition No. 1. In addition to the following conditions:

I. In the event the investigating agency finds that any items requiring excise licence are stored in the premises of the petitioner without there being any excise licence, it would be open to the I/O to move the jurisdictional Court for cancellation of bail.

II. The petitioner shall provide his e-mail address and other relevant documents so that notice can be issued by the I/O for his presence during investigation.

III. In the event the petitioner leaves the territorial jurisdiction of the Country, he will take prior permission from the I/O and/or from the learned Court as and when trial commence.

8. Application stands disposed of.

9. Case diary be returned.

JUDGE

Comparing Assistant