

GAHC010092492023



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

Case No. : AB/1557/2023

NUR ISLAM @ NURUL ISLAM AND ANR
S/O LATE AZIZUL HOQUE
R/O VILL- TUPAMARI NO. 2,
P.S. NAGARBERA
DIST. KAMRUP, ASSAM

2: SAIDUR RAHMAN
S/O MUKTAR HUSSAIN
R/O VILL- RANGESWARI
P.S. NAGARBERA
DIST. KAMRUP
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

Date : 20.09.2023

Heard Mr. A. Ahmed, learned counsel for the petitioners. Also heard Mr. B. Sarma, learned Addl. Public Prosecutor for the State/respondent.

By this petition filed under Section 438 Cr.P.C., the petitioners, namely, **1. Nur Islam @ Nurul Islam, 2. Saidur Rahman**, have prayed for granting pre-arrest bail, apprehending arrest in connection with **Nagarbera P.S. Case No. 46/2023** registered u/s **379/411** of the IPC, r/w Section **7** of the Essential Commodities Act.

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

It may be mentioned that by order, dated 05.06.2023, the Court granted the privilege of interim pre-arrest bail to the petitioners.

The matter relates to recovery and seizure of 523 bags of FCI/PDS/NFSA rice, which was suspected to be stolen, from the possession of the petitioners' godown.

Mr. A. Ahmed, learned counsel for the petitioners, submits that the petitioner No. 1 has a valid trade license and both the petitioners jointly purchased rice from various individuals of the local weekly markets and then sell in retail price to the customers at Tupamari Bazar. However, without proper investigation and merely based on false information, police seized the rice from their godown on 06.04.2023 suspecting to be FCI/PDS/FSA stolen rice. Mr. Ahmed further submits that after obtaining interim pre-arrest bail, as they have joined the investigation, their custodial interrogation may not be warranted.

Mr. B. Sarma, learned Addl. Public Prosecutor, Assam, submits that a huge quantity of 26150 Kg. of rice and 14 Nos. of empty jute bags with FCI mark were recovered and seized from the godown of the petitioners. Mr. Sarma further submits that the case diary reveals that the petitioners, on demand of police, failed to account for the aforesaid huge stock of rice. Therefore, Mr. Sarma submits that custodial interrogation of the petitioners is necessary for the purpose of investigation.

A perusal of the case diary, it is, *inter-alia*, revealed that the petitioners claimed to have purchased the seized rice from M/s Nazma Rice Mills, but on

verification of the Tax Invoice, it is found that the documents aforementioned produced by the petitioner No. 1, which contained that the rice brand is 'Red Rose common Rice 50 Kg. of total quantity 26150 Kg. rice in 523 PKt,'. However, as per FCI Test check reports, the seized rice is 'Grade-A commodity.' The aforesaid variation appears to be material giving rise to grounds for further indepth investigation. Therefore, this Court is of the opinion that although the petitioners have joined the investigation as per condition of the interim pre-arrest bail granted vide order, dated 05.06.2023, it is not a fit case to grant the privilege of pre-arrest bail to the petitioners as the case involves great public interest.

Accordingly, the pre-arrest bail application stands rejected.

Return the case diary.

Interim order, passed earlier on 05.06.2023, stands vacated.

This disposes of the anticipatory bail application.

JUDGE

Comparing Assistant