

GAHC010120732023



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

Case No. : AB/1969/2023

GOPAL GHOSH
S/O- LATE ANIL GHOSH , R/O- CHAKITUP, P.S. NAGAON, DIST.- NAGAON,
ASSAM, PIN- 782003

VERSUS

THE STATE OF ASSAM
REP. BY THE P.P., ASSAM

Advocate for the Petitioner : MR. S C BISWAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

28.06.2023

Heard Mr. S.C. Biswas, learned counsel appearing for the petitioner. Also heard Mr. B.B. Gogoi, learned Addl. Public Prosecutor, Assam appearing for the State respondent.

This second petition under Section 438 Cr.P.C., is filed for granting the

privilege of pre-arrest bail to the petitioner, namely **Gopal Ghosh** apprehending arrest in connection with **Nagaon P.S. Case No.120/2023** registered u/s **22(c)** of the N.D.P.S. Act (corresponding to **G.R. Case No.106/2023**).

The earlier pre-arrest bail application of the petitioner being AB No.1122/2023 was rejected by this Court vide order, dated 10.04.2023.

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

The case relates to recovery and seizure of 5 cartons of CORIZEST Cough Syrup bottles numbering total 560 bottles (100 ml. per bottle) from the possession of one Sariful Islam.

Mr. S.C. Biswas, learned counsel appearing for the petitioner, submits that the petitioner is the owner of the M/s Vishal Drug Distributors situated at Nagaon and has been running the business of drug distribution from the year 2007 with valid license. Mr. Biswas further submits that on 21.02.2023, the petitioner had placed order for supply of 600 bottles of COZIREX Cough Syrup from Medrix Pharmaceuticals Pvt. Ltd., Muzaffarpur, Bihar and accordingly, the said company supplied the items through courier service as had been done before. Mr. Biswas submits that as per order, the company supplied the medicines to his distributorship and accordingly, he has sent Sariful Islam, an employee of Vishal Drug Distributor to receive the consignment. In support of his claim, the petitioner has annexed copy of the relevant documents vide Annexures-3, 4 and 5. Therefore, Mr. Biswas submits, that the petitioner being an innocent person, he may be granted the privilege of pre-arrest bail so as to enable him to produce all the relevant documents relating to the consignment.

Mr. B.B. Gogoi, learned Addl. Public Prosecutor, submits that the case diary reveals that one Sariful Islam, who is an employee of Vishal Drug Distributor,

carried the seized contraband and he stated before the police that the present petitioner had sent him to receive the cartons, but, no document could be produced on demand by the police. There is indication on the case diary that a racket of drugs traffickers is involved in the in Nagaon district.

Upon scrutiny of the case diary, it is noticed that there is prima facie incriminating material against the petitioner as the claim documents relating to the seized materials were not produced before the police on demand while Sariful Islam was intercepted and recovered the aforesaid materials from his possession. The investigation is yet to be completed.

Therefore, this Court is of the considered opinion that if the privilege of pre-arrest bail is granted to the petitioner, the ongoing investigation into the case may likely to be adversely affected.

Accordingly, the pre-arrest bail application of the petitioner stands rejected.

Return the case diary.

This disposes off the anticipatory bail application.

JUDGE

Comparing Assistant