

GAHC010128952023



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

Case No. : AB/2093/2023

MUKLESUR RAHMAN
SON OF LATE MATIAR RAHMAN,
VILL GHILAJARI,
P.S.- HOWLY,
DIST- BARPETA, ASSAM.

VERSUS

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

Advocate for the Petitioner : MR. S MUNIR

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

O R D E R

03.08.2023.

Heard Mr. S. Rahman, learned counsel appearing for the applicant. Also heard Mr. B. Sarma, learned Addl. P.P., Assam appearing for the State respondent.

2. By this application, filed under Section 438 CrPC, the petitioner, namely, Muklesur Rahman has sought for pre-arrest bail, who has been apprehending arrest in connection with Howly PS Case No. 110/2023, under Sections 379/411

of the IPC, read with Section 23 of the Petroleum Act, 1934.

3. It is to be noted here that the Howly PS Case No. 110/2023, under Sections 379/411 of the IPC, read with Section 23 of the Petroleum Act, 1934, has been registered on the basis of one F.I.R., lodged by ASI Achyut Deka on 01.06.2023, to the effect that acting on a tip off regarding illegal stock of stolen fuel i.e. diesel, petrol, etc. at Kaljhar Village under the Howly P.S., he under the leadership of DSP (HQ) along with other PS staff, went to the Barbala Village and apprehended one Mahidul Islam and during interrogation, he reveals that he has been stocking diesel, petrol, etc. at Kalijhar Village and running a business of such articles with some other persons and accordingly, on being led by him, conducted search at the storage place at Kalijhar and recovered 13 numbers of gallons/barrels, each containing 200 liters of petrol and seized the same by preparing seizure list. During his interrogation, Mahidul could not produce any valid document in support of storing the petroleum products.

4. Mr. S. Rahman, learned counsel for the applicant submits that vide order dated 14.06.2023, this Court was pleased to extend interim protection to the applicant and pursuant to the said order, the applicant appeared before the I.O. and his statement has been recorded and that the applicant is cooperating with the investigating agency and that the main culprit has already been enlarged on bail by the learned Court below on the very date of his arrest on 02.06.2023, and that the applicant is innocent and no way involved in the offence and therefore, it is contended to make the interim order dated 14.06.2023 absolute, in the same terms and conditions.

5. On the other hand, by producing the case diary before this Court, Mr. B. Sarma, learned Addl. P.P., Assam submits that there is sufficient materials against the present applicant and some of the accused persons are yet to be

arrested and investigation is going on and therefore, it is contended to dismiss the bail petition.

6. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the Case Diary produced before this Court with the assistance of Mr. B. Sarma, learned Addl. P.P., Assam.

7. It appears that pursuant to the order dated 14.06.2023, the applicant appeared before the investigating agency and his statement has already been recorded. Further it appears that the applicant has been cooperating with the investigating agency.

8. In view of the materials collected so far in the Case Diary and also in view of the progress, so far achieved by the I.O. in the investigation and also considering the fact that applicant has been extending cooperation with the investigating agency, and also the submission of learned Advocates of both sides, this Court is inclined to make the interim order, dated 14.06.2023, absolute in the same terms and conditions.

9. In terms of above, this anticipatory bail application stands disposed of.

10. The Case Diary be sent back.

JUDGE

Comparing Assistant