

GAHC010142212023



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

Case No. : Bail Appln./2291/2023

JAMAL HOSSAIN AND ANR

S/O- ABDUL MAJID, R/O- VILL- SONAPUR, WARD NO-01, NEAR SONAPUR
HIGH SCHOOL, P.O. RABINDRANAGAR, P.S. SONAMURA, KATHALIA,
DIST.- SEPAHIJALA, TRIPURA- 799131

2: SHRI SHAH ALAM

S/O- SHRI ABDUL RAHMAN

R/O- NABADWIPCHANCHANDRANAGAR (PART)

DURGAPUR

P.O. DURGAPUR

P.S. SONAMURA

DIST.- SEPAHIJALA

TRIPURA- 79913

VERSUS

THE DRI

REP. BY SC, DRI

Advocate for the Petitioner : MR S CHOUDHURY

Advocate for the Respondent : SC, DRI

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 20.07.2023

1. Heard Mr. S. Choudhury, learned counsel for the petitioners, also heard Mr. S. C. Keyal, learned standing counsel for the DRI.

2. This application under Section 439 of the Code of Criminal Procedure,

1973 has been filed by the petitioners, namely, *1. Shri Jamal Hossain, 2. Shri Shah Alam*, who have been detained behind the bar since 16.06.2023, in connection with DRI Case No. 08/CL/IMP/GOLD/DRI/GZU/2023-24, under Sections 7(1)/11/104/110/135 of the Customs Act, 1962.

3. The accusation against the present petitioners is that the Senior Intelligence Officer, DRI on getting reliable information intercepted the present petitioners who were travelling in Train No. 02502- Agartala-Kolkata Special, from Platform No. 6 of Guwahati Railway Station, Assam on 14.06.2023 at about 9.25 p.m. seized 18 nos. of Gold Bar assorted shapes and size of gold of foreign origin total weight about 2595.540 gms. Valued at about 1,57,03,017/- (Rupees One Crore Fifty Seven Lakhs Three Thousand and Seventeen) only.

4. The learned counsel for the petitioner submits that the petitioners are falsely implicated in the instant case and they are petty businessman and their statements were forcefully recorded by the DRI officials. It is also submitted that both the petitioners are the permanent residents of Sepahijala, Tripura and, hence, there is no scope of their absconding and they will cooperate with the Investigating Officer, if they are released on bail with any conditions.

5. On the other hand, learned standing counsel, DIR, has produced the case diary of the relevant case and has submitted that there are incriminating materials against the present petitioners and the gold bars were concealed inside the sole of the shoes worn by the present petitioners and the present petitioners could not produce any valid documents for carrying the said gold. It is also submitted that the value of seized gold exceeds Rs. 1(one) Crore i.e. 1,57,03,017/- (Rupees One Crore Fifty Seven Lakhs Three Thousand and Seventeen) only and there are materials to show that both the petitioners are active members of syndicate who are involved in large scale of smuggling of

gold of foreign origin from Bangladesh to India and the investigation is still at initial stage.

6. I have considered the submissions made by learned counsel for both sides and also perused the materials available in the case record including the case diary.

7. Considering the nature of incriminating material available against the present petitioners in the case diary and the stage of investigation, this Court is of the considered opinion that releasing the present petitioners on bail at this stage would impede the fair investigation of the concerned DRI case. Hence, prayer for bail of the present petitioners is rejected at this stage.

8. Send back the case diary of DRI Case No.08/CL/IMP/GOLD/DRI/GZU/2023-24.

JUDGE

Comparing Assistant