

GAHC010154872023



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

Case No. : AB/2482/2023

MAFIDUL ISLAM
S/O TAMSER ALI
R/O VILL- BALAJAN, P.O. BALAJAN
P.S. BAGHBAR,
DIST. BARPETA, ASSAM
PIN-781308

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. D P BORAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 20.07.2023

Heard Mr. D. P. Borah, learned counsel for the petitioner. Also heard Ms. S. H. Bora, learned Additional Public Prosecutor for the State.

This is an application under Section 438 of the Code of Criminal Procedure, 1973 filed by the petitioner, namely, *Mafidul Islam* who is apprehending his arrest

in connection with Hamren P.S. Case No. 17/2023 under Section 447/379/120(B) of the Indian Penal Code read with Section 21(4) of the Mines and Minerals (Development and Regulation) Act, 1957.

The accusation in this case is that on 26.06.2023, one Moon Ch. Deka, Senior Geologist, Directorate of Geology and Mining, lodged an FIR before the Officer-in-Charge of Hamren Police Station, *inter alia*, alleging that on that day, when the first informant along with some other officials of Geology Department had arrived at Anglong Service Station, Bharat Petrol Pump near District Jail, Hamren. They found five trucks loaded with quartz materials and no documents could be produced by the handyman-driver and accordingly, the said trucks were seized. Out of these trucks, three trucks, namely, two dumpers and one truck belonged to the present petitioner. On receipt of the said FIR, Hamren P.S. Case No. 17/2023 has been registered.

Learned counsel for the petitioner submits that the petitioner is a supplier of quartz stones and used to supply the quartz stones to industries at Byrnihat at under the name and style of "M/s Kharsati Lime Industry" from the stone queries of "M/s Priyanka Prity Baruah" which is authorized stone query at Hamren.

Learned counsel has also submitted that on the date of incident though the trucks were loaded, however, before the requisite documents could be handed over to the driver of the said trucks, the search and seizure were made, therefore, the documents could not be produced before measurement of the loaded quartz. It is also submitted that on earlier occasion also, the petitioner used to supply the quartz from the said queries and in support of his contention, the petitioner has produced the copies of the challans which are annexed as Annexure- 5 and 5A to the bail petition.

Learned counsel for the petitioner submits that his three trucks are already

seized and he is ready to cooperate with the Investigating Officer.

I have heard the learned Additional Public Prosecutor.

Considering the submissions made by learned counsel for the petitioner as well as materials placed on record, this Court is of considered opinion that if the petitioner cooperates with the Investigating Officer, his custodial detention may not necessary for fair completion of the investigation of Hamren P.S. Case No. 17/2023. Hence, the petitioner, namely, *Mafidul Islam* is hereby directed to appear before the Investigating Officer of Hamren P.S. Case No. 17/2023 within a period of ten days from the date of this order and cooperate with the Investigating Officer for fair completion of the said case. If he does so within the stipulated period of time, in the event of his arrest, in connection with Hamren P.S. Case No. 17/2023, he shall be allowed to go on interim bail of Rs.50,000/- (Rupees Fifty Thousand) only with one surety of like amount to the satisfaction of Arresting Authority, subject to the condition:-

- (i) That the petitioner shall cooperate with the Investigating Officer in completion of the investigation,
- (ii) That the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts before the trial court.

With the above observations, the instant bail application is hereby disposed of.

JUDGE

Comparing Assistant