

GAHC010154902023



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

Case No. : AB/2484/2023

RAJESH KALITA
S/O SRI PRANJIT KALITA
R/O H/NO. 15, NEAR BORSAJAI
L.P. SCHOOL, LALMATI
P.O. AND P.S. BASISTHA
GUWAHATI-781029,
DIST. KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR S C DAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

28.08.2023

Heard Mr. S.C. Das, learned counsel for the applicant and also heard Ms. S.H. Bora, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application, under Section 438 Cr.P.C., is preferred by the applicant, namely, Rajesh Kalita, who has been apprehending arrest in connection with Azara P.S. Case No.139/2023, under Sections 379/407 IPC, for grant of pre-arrest bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of one FIR lodged by one Kashmir Singh on 20.07.2023. The essence of allegation made in the FIR is that a consignment of vegetable oil of worth ₹ 17,00,000/- were transported from Guwahati to Imphal by one Truck, bearing Registration No.AS01-PC-7258 on 23.06.2023. Thereafter, the said Truck remained untraced and the driver of the Truck also could not be contacted as his mobile phone, bearing No.7002852682 was found to be switched off.

4. Mr. Das, learned counsel for the applicant submits that this Court was pleased to extend the interim protection to the applicant vide order dated 28.07.2023, and pursuant to the said order, he appeared before the I.O. and his statement is recorded and he has been cooperating with the investigating agency and therefore, it is contended to make the interim order dated 28.07.2023 absolute, in the same terms and conditions.

5. On the other hand, Ms. S.H. Bora, learned Additional Public Prosecutor has produced the case diary before this Court and vehemently opposed the petition on the ground that the Truck and the consignment both are not yet recovered and if the interim bail granted to the applicant is made absolute, then it will hamper the investigation and in recovering the Truck and the consignment of goods. Therefore, Ms. Bora has contended to dismiss this petition.

6. Having heard the submission 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 with the assistance of Ms. Bora, learned Additional P.P. for the State respondent.

7. The materials collected so far in the case diary, reveals complicity of the applicant with the offence alleged in the FIR. The applicant is the son of the driver of the Truck by which the vegetable oil was carrying from Guwahati to Manipur. The value of the

aforesaid vegetable oil appears to be worth ₹ 31,00,000/-.

8. Having regards to above, and also having regards to the nature and gravity of the offence, this Court is of the view that this is not a fit case where the privilege of pre-arrest bail can be granted to the applicant. Accordingly, the anticipatory bail application stands dismissed. Consequently, the interim order dated 28.07.2023 stands vacated.

9. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant