

GAHC010158902023



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

Case No. : AB/2553/2023

DEWAN JIYARUL HOQUE
S/O DEWAN HANIF ALI
R/O VILL- HALDHIA PATHAR
P.S. SORBHOG, P.O. GHUGUBARI
DIST. BARPETA, ASSAM
PIN-781319

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR N J DUTTA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

07-08-2023

Heard Mr. N J Dutta, learned counsel for the petitioner and Mr. M P Goswami, learned Additional Public Prosecutor, Assam for the State.

By this application under Section 438 CrPC, the petitioner, namely, **Dewan Jiyarul Hoque**, has prayed for his pre-arrest bail in Ghograpar Police Station Case No. 99/2023

corresponding to G.R. No. 1126/2023, registered under Sections 120(B)/420/379/411 IPC.

This is the second pre-arrest bail application of the petitioner in said Ghograpar Police Station Case No. 99/2023.

As per the FIR dated 28.04.2023 relating to the case in hand, on the basis of specific input during a Naka Checking, one loaded Truck bearing Registration No. AS-26-AC-0565 was found proceeding towards Nalbari from Barpeta side. On being apprehended, taking the advantage of bad weather with heavy windstorm and rainfall both the driver and the handyman of the said truck fled away from the scene and the truck was found carrying 200 bags of DAP fertilizers, each bag containing 50 Kgs and 2 cartoons of suspected Indofil M-45 pesticides, each cartoon containing 30 packets.

Considering such illegal transportation of fertilizers and pesticides that too without any valid documents, the concerned Truck involved in the case including the 200 bags of DAP fertilizers and the 2 cartoons of suspected Indofil M-45 pesticide, noted above, were seized.

The petitioner is the owner of the said Truck involved in said Ghograpar Police Station Case No. 99/2023.

From the Case Diary it is seen that the petitioner is a resident of Haldhia Pathar under Sorbhog Police Station of District-Barpeta and that no one has approached for release of the said seized truck as well as the fertilizers and pesticides seized in said Ghograpar PS Case No. 99/2023, till the last date of entry in the Case Diary i.e. as on 01.08.2023.

From the Case Diary it is also seen that on the prayer of the Investigating Officer of the case, the Sub-Divisional Judicial Magistrate (Sadar), Nalbari vide order dated 24.07.2023 passed in said Ghograpar PS Case No. 99/2023 allowed to hand over the said seized fertilizers and pesticides to the District Agricultural Officer, Nalbari, but ascertaining that the seized materials are indeed fertilizers and on such hand over the District Agricultural Officer, Nalbari shall dispose of these fertilizers and pesticides as per the provisions of law.

The District Agricultural Officer, Nalbari on 26.07.2023 informed that it does not have the facilities in its laboratory in the district of Nalbari for testing of said Indofil M-45 pesticides. As such, the seized fertilizers and pesticides were tested in the Fertilizer Quality Control Laboratory of the State of Assam under the Directorate of Agriculture at Guwahati

and after such testing, the authorities in the Fertilizer Quality Control Laboratory of the Directorate of Agriculture on 29.07.2023 submitted the Analysis Report of the samples of the seized fertilizers to be non-standard fertilizers as per the specification of the FCO.

The Case Diary also reveals that the petitioner is involved in the illegal trade and transportation of fertilizers and pesticides using his said seized Truck involved in the case.

Considering such incriminating materials in the Case Diary regarding involvement of the petitioner in the alleged offence, this Court is of the view that this is not a fit case to grant pre-arrest bail to the petitioner, namely, **Dewan Jiyarul Hoque**, in said Ghograpar Police Station Case No. 99/2023 registered under Sections 120(B)/420/379/411 IPC.

Accordingly, this pre-arrest bail application of the petitioner, named above, in said Ghograpar Police Station Case No. 99/2023 stands rejected.

Return the Case Diary.

JUDGE

Comparing Assistant