

GAHC010174592023



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

Case No. : Bail Appln./2827/2023

HEMANTA TALUKDAR
S/O LATE BARUN TALUKDAR
WARD NO. 10, DHEKIAJULI TOWN,
P.O. AND P.S. DHEKIAJULI
DIST. SONITPUR, ASSAM, PIN-784110

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M SARANIA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

21.08.2023

Heard Mr. M. Sarania, learned counsel for the accused petitioner. Also heard Mr. M. Phukan, learned Public Prosecutor, Assam appearing for the State respondent.

2. By this petition under Section 439 Cr.P.C., the accused petitioner, namely **Hemanta Talukdar** has prayed for grant of bail in connection with **Vigilance P.S. Case No.04/2023** under Sections **120B/420/406/409** of the IPC read with Sections **13(1)(a)/13(2)** of the P.C. Act.

3. The case diary, as called for, is placed before the Court.

4. Mr. M. Sarania, learned counsel for the accused petitioner, submits that the accused has been detained in judicial custody for 53 days despite being innocent and he is roped into the case based on some false and concocted complaint. Mr. Sarania submits that the actual case was shortage of supply of NFSA rice by the F.C.I. as per allotment of the Food, Civil Supplies and Consumer Affairs Department and so, the question of non distribution of such NFSA rice to the targeted beneficiaries cannot arise. Mr. Sarania submits that a proper auditing/verification of the relevant TCRs of the F.C.I., the carrier road challans and receipt stock register of M/s Dhekiajuli CM & CS Ltd. and distribution registers will amply prove everything. Therefore, Mr. Sarania, learned counsel, submits that further continuation of detention of the accused petitioner for the purpose of the ongoing investigation is not warranted.

5. *Per contra*, Mr. M. Phukan, learned Public Prosecutor, submits that the case diary reveals that the present accused petitioner is the kingpin behind the NFSA rice scam in Sonitpur district of Assam to the tune of several crores and thereby deprived the targeted groups of beneficiaries. Mr. Phukan further submits that the case of the present accused being different in nature, the benefit of parity in bail orders cannot apply to his case.

6. The prosecution case, in brief, is that on 22.06.2023, one Durlav Nath, General Secretary, All Sonitpur District Fair Price Shop Dealers Association

lodged an F.I.R. before the Chief Minister of Assam, alleging that 2,418.20 quintals of rice under Pradhan Mantri Garib Kalyan Yojana for the months of June and July, 2023 was allotted against 10,173 ration cards of 25,051 poor beneficiaries of Dhekiajuli town and Mijibari Samabai Samiti under Dhekiajuli Constituency. But, instead of distributing the allotted rice amongst the ration card holders the Secretary and other officials of the Society sold the same at high rate and thereby misappropriated Rs.2 crores.

7. It is noticed that the accused petitioner has been in judicial custody since 01.07.2023 that is, for 52 days.

8. A perusal of the case diary reveals that the accused petitioner is the Secretary of Dhekiajuli and Mijibari Gaon Panchayat Samabay Samittees. It is further prima facie revealed that he has been arrayed as an accused in Dhekiajuli P.S. Case No.98/2023 under Section 379 of the IPC read with Section 7 of the E.C. Act, which was registered on 13.06.2023 arising out of the instant PDS rice scam, which is yet to be amalgamated to the present case.

9. The case diary reveals that the accused in connivance with co-accused persons sold PDS rice at higher price in the black market of Dhekiajuli and Mijibari areas, some of which has been recovered and seized from co-accused persons. The approximate value of such PDS rice is estimated at Rs.2 Crores. It is also prima facie revealed that the accused misappropriated/swindled 2316.90 quintals of NFSA rice and the investigating agency recovered and seized a small part thereof from different locations. The thrust of the entire evidence so far collected by the investigating officer projects the present accused as the kingpin behind the instant big racket of suspected PDS rice sale in the black market through black marketeers for personal wrongful monetary gain depriving thereby the targeted marginalized beneficiaries.

10. The expert opinions on relevant documents starting from the government allotments of PDS rice during the relevant periods and accordingly supplies so made from the F.C.I.; transportation thereafter from the F.C.I. godown etc. and receiving points of the rice as well as distribution of such rice to the beneficiaries etc. are yet to be received. Further, surprisingly, the expert's opinion identifying the seized rice as PDS rice is also yet to be received.

11. Thus, upon consideration of the pros and cons of the entire evidence so far collected in connection with the case and the length of detention (52 days), this Court is of the opinion that further continuation of detention of the accused petitioner for the purpose of ongoing investigation is not warranted.

12. Accordingly, it is provided that the accused petitioner, named above, shall be released on bail of **Rs.50,000/- (Rupees Fifty Thousand)** with one surety of like amount to the satisfaction of learned **Special Judge, Assam** subject to the following conditions-

- i) That the accused petitioner shall cooperate with the Investigating Officer as and when required;
- ii) That the accused 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 to the Police Officer or the Court; and
- iii) That the accused petitioner shall not visit the offices of the Dhekiajuli and Mijibari Gaon Panchayat Samabay Samittees and shall not have any access to any relevant document unless permitted by the investigating officer for inspection purpose until completion of

investigation.

Breach of any of the above conditions shall render cancellation of the bail in accordance with law.

Return the case diary.

The bail application stands disposed of.

JUDGE

Comparing Assistant