

GAHC010181052023



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

Case No. : AB/2941/2023

RAHIM UDDIN @ RAHIM ALI
S/O LT. SUKTA MANDAL @ LT. CHUTAKA MANDAL
R/O VILL- KABAITANI PART-IV,
P.S. JUGIGHOPA
DIST. BONGAIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

14.09.2023

Heard Mr. A. Ahmed, learned counsel for the applicant. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with the **BI [EO] P.S. Case No. 23/2021**, under Sections 120[B]/420/406 of the IPC read with Section 7 of the EC Act, this application under Section 438 of the Code of Criminal

Procedure, 1973, is preferred by accused/applicant, namely, **Rahim Uddin @ Rahim Ali** for grant of pre-arrest bail.

3. The aforementioned case has been registered on the basis of one F.I.R., lodged by one Dilip Kumar Deka, Superintendent, FCS & CA on 01.12.2021. The essence of allegations made in the FIR is that acting on a tip off the informant along with his staff conducted raid in the rice mill cum godown premises of the applicant, at village Kabaitari Part-IV under Jugighopa Police Station of Bongaigaon District and recovered huge quantities of PDS/TPDS rice in FCI marks jute gunny bags along with FCI tag and yellow colored plastic bags. At the relevant point of time, the applicant was neither present at his mill premises nor in his residence, but his mother, wife and children were present there and when they were asked, they have failed to produce any purchase memo, trade license under concerned Gaon Panchayat etc. for storage, sale and dealing license of PDS rice at his shop cum godown including. During the inquiry they have found 60 Nos. of yellow colored bags of PDS/TPDS Rice i.e. 30 qtls, 200 nos. of empty jute gunny bags along with FCI tags and 3 nos. of 220 capacity iron barrel of blue-Dyed S.K. Oil i.e. 660 liters.

4. Mr. Ahmed, learned counsel for the applicant submits that this is the third anticipatory bail application preferred by the applicant on the ground that while the earlier two applications were filed, the applicant could not produce any the Invoice of purchasing the seized 60 packets of rice. Mr. Ahmed also submits that the applicant had purchased the 60 packets of rice form Kabaitari market on 14.11.2021, and that the applicant is no away involved with the offence alleged in the FIR and that the applicant is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, by producing the Case Diary before this Court, Mr. Borthakur, learned Additional Public Prosecutor submits that the ground for filing this third anticipatory bail application is not at all satisfactory and that the investigation is still going on and the custodial interrogation of the applicant is necessary to unearth the racket and to apprehend the co-accused who are involved in the offence and therefore, it is contended to dismiss the petition.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition as well as the documents placed on record and also perused the Case Diary produced before this Court with the assistance of learned Additional Public Prosecutor. I have also carefully gone through the Sale/Purchase Receipt, being serial No. 119, at page No. 23 of the petition, submitted by the applicant.

7. Indisputably, this is the third anticipatory bail application and this is being preferred on the ground that the petitioner could not enclosing the sale purchase receipt of 60 packets of rice from the Kabaitari market, for which lead to dismissal of the earlier two applicants, being in AB No. 4281/2021 vide order dated 25.01.2022, and being AB No. 3673/2022, vide order dated 20.12.2022. Further, it appears from the Sale/Purchase Receipt that the same was issued on 24.11.2021, which indicates that the applicant has purchased 60 packets of rice from one Rahim Ali. But suspicion creeps in mind about the genuineness of the aforesaid Sale/Purchase Receipt and if the same being existed on 24.11.2021, the petitioner could have furnished the same along with the AB No. 4281/2021 and AB No. 3673/2022 and there is no plausible explanation as to why it could be furnished before this Court. Moreover, the order dated 25.01.2022, in AB No. 4281/2021, reveals that a query was put to the counsel

for the applicant as to how PDS was stored in the residence of the applicant and under his possession and then the learned counsel for the applicant had failed to offer any explanation for the same. The applicant could very well produce the document before this Court so as to convince it that he purchased the 60 packets of rice from Kabaitari market. Further, the case diary indicates that the IO has collected sufficient incriminating materials against the applicant and the investigation is still going on.

8. Accordingly, this Court is of the view that this is not a fit case where the privilege of pre-arrest bail can be extended to the applicant. Having regards to the enormity of the offence custodial interrogation of the applicant appears to be very much necessary in the interest of investigation and therefore, the petition stands dismissed.

9. Case diary be returned.

JUDGE

Comparing Assistant