

GAHC010195952023



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

Case No. : Bail Appln./3088/2023

BABAN PATHAK AND ANR.
S/OLATE MANORANJAN PATHAK
VILL- BOHORI
P.S. TARABARI
DIST. BARPETA, ASSAM

2: SUDARSHAN MEDHI
S/O PRAMOD MEDHI
VILL- BOHORI
P.S. TARABARI
DSIT. BARPETA
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MS. T SOM

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

11.09.2023

Heard Mr. R.P. Sarmah, learned Senior counsel assisted by Ms. T. Som, learned

counsel for the accused. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor, Assam, appearing for the State respondent No.1 and Mr. A. Bhattacharjee, learned counsel appearing for the informant.

2. This petition under Section 439 Cr.P.C. is preferred by accused, namely, Baban Pathak and Sudarshan Medhi, who have been languishing in jail in connection with Hatigaon P.S. Case No.264/2023 under Section 406/419/420 of the IPC, for granting bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of a FIR lodged by one Aditya Haralalka of Hudson Foods Private Limited on 09.08.2023. The essence of allegation made in the FIR is that one Nilank Kashyap and Dipshikha Choudhury, who are the In-Charge of Godown of Hudson Foods Private Limited at Sonapur, along with some other staff had misappropriated 89.90 MT of poultry feed.

4. Mr. R.P. Sarmah, learned Senior counsel for the accused persons submits that the accused were arrested on 21.08.2023, and since then they have been languishing in jail hazot and that they are no way involved with the offence alleged in the FIR and they will cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. Whereas, Mr. P. Borthakur, learned Additional Public Prosecutor, has produced the case diary before this Court and submits that the I.O. has collected sufficient incriminating materials against the accused in the case diary and that the investigation is still going on and the misappropriated poultry feed have not yet been recovered and that enlarging the accused persons on bail at this stage will misdirect the investigation and therefore, it is contended to dismiss the petition.

6. On the other hand, Mr. A. Bhattacharjee, learned counsel appearing for the informant also submits that he has filed one affidavit opposing the bail application filed by the accused persons. Mr. Bhattacharjee submits that the accused Baban Pathak was the in-charge of the godown of Hudson Foods Private Limited and along with other accused he had misappropriated 89.90 MT of poultry feed from the godown and that he has not

been cooperating with the investigating agency and therefore, it is contended to dismiss the petition. Mr. Bhattacharjee further submits that the value of misappropriated poultry feed would be worth ₹ 3,03,22,263.17.

7. 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 Mr. Borthakur, learned Additional P.P. and also perused the counter-affidavit submitted by the informant.

8. It appears that the accused persons were arrested on 21.08.2023 and since then they are languishing in jail hazot. Further it appears that the I.O. has collected sufficient incriminating materials against both the accused persons. The investigation is still going on and the I.O. also could not achieve much progress in the investigation and the misappropriated poultry feed have not yet been recovered and enlarging the accused persons on bail, at this stage will misdirect the investigation.

9. Under the aforesaid facts and circumstances and also considering the nature and gravity of the offence and the punishment prescribed for the same, this Court is of the view that this is not a fit case where the privilege of bail can be granted to the accused persons and accordingly, the bail application stands dismissed.

10. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant