

GAHC010210632023



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

Case No. : Bail Appln./3388/2023

SUDARSHAN MEDHI
S/O PRAMOD MEDHI
VILL- BOHORI
P.S. TARABARI
DIST. BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MS. T SOM

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

10.10.2023

Heard Mr. R.P. Sarmah, learned Senior Counsel, assisted by Ms. T. Som, learned counsel for the accused; Mr. P. Borthakur, learned Additional Public Prosecutor for the State respondent; and Mr. A. Bhattacharjee, learned counsel for the informant.

2. This petition, under Section 439 Cr.P.C. is preferred by accused, namely **Sudarshan Medhi**, who has been languishing in jail in connection with

Hatigaon P.S. Case No. 264/2023, under Sections 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. Sarmah, learned Senior Counsel submits that the accused was arrested on 21.08.2023, and since then he has been languishing in jail hazot for last 51 days and that the name of the accused finds no mention in the FIR and that the offences alleged in the FIR, are not at all applicable in the case of the accused. Mr. Sarmah further submits that the wife of the accused is in the advance stage of pregnancy and there is none in his house, to look after her. Mr. Sarmah also submits that the case is related to documents, which have already been seized by the police and therefore, the custodial detention of the accused may not be required in the interest of investigation and therefore, it is contended to allow the petition.

5. On the other hand, Mr. Borthakur, learned Addl. P.P. submits that the case diary is not available with him, as it is lying in the Court No. 18. Mr. Borthakur further submits that he has objection in releasing the accused on bail, as sufficient incriminating materials are there in the case diary, which has been reflected in the order of the earlier bail application, dated 11.09.2023, and therefore, it is contended to dismiss the petition.

6. Whereas, Mr. Bhattacharjee, learned counsel for the informant also submits that he has serious objection if the accused is released on bail

considering the merit of the case. Mr. Bhattacharjee further submits that the Court may, however, consider the period of detention.

7. Having heard the submissions of learned counsel for both parties, I have carefully gone through the petition as well as the materials placed on record.

8. It appears that the accused was arrested on 21.08.2023, and since then he has been languishing in the jail hajot for last 51 days. Further it appears that since the rejection of earlier bail application, more than one month has elapsed and the IO got sufficient time for investigation of the case. Also it appears from the Annexure – 4 [Page No. 32] that the wife of the accused is in the advantage of pregnancy and it is stated that there is none in his house to look after her. Also, it appears that relevant documents have already been seized by the police.

9. Under the aforesaid facts and circumstances of the case, this Court is of the view that further custodial detention of the accused is not required, in the interest of investigation and therefore, this Court is inclined to allow this petition.

10. Accordingly, it is provided that on furnishing a bond of Rs. 50,000/- only, with one surety of like amount to the satisfaction of the learned **Chief Judicial Magistrate, Kamrup [M] at Guwahati**, the accused be enlarged on bail.

11. In terms of above, this bail application stands disposed of.

JUDGE

Comparing Assistant