

GAHC010219292022



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

Case No. : AB/3178/2022

GULJAR HUSSAIN TAPADAR @ GULJHAR HUSSAIN
S/O LT. ABDUS SUBUR TAPADAR
R/O VILL- FARIDKONA UNDER PATHARKANDI POLICE STATION, DIST.
KARIMGANJ, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A M BORA

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

09-06-2023

Heard Mr. A. M. Bora, learned Senior Counsel assisted by Mr. D. Gagai, 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, **Sri Guljar Hussain Tapadar @ Guljar Hussain**, apprehending his arrest is seeking pre-arrest bail in Kalain P.S. Case No.457/2022 registered under Sections 120(B)/379/420/411 IPC corresponding to G.R. No. 3996/2022.

The petitioner is on interim bail in said Kalain P.S. Case No.457/2022 pursuant to the order passed earlier on 01.11.2022.

On 05.10.2022, one loaded Truck bearing Registration No.AS-09-AC-8319 proceeding towards Meghalaya from Katigorah side carrying Betel Nuts suspected to be of Burmese origin was apprehended during a Naka Checking duty at MVI Gate under Kalain Police Station around 07:45 pm. As the Driver and Handyman of the said vehicle, on being asked, failed to show any valid documents about the Betel Nuts loaded in the Truck, they were taken into custody.

The said Truck was found with 300 bags of Betel Nuts. During interrogation, those two accused persons, i.e., the driver and the handyman of the truck told police that said Betel Nuts loaded from the godown of the petitioner at Asimganj under Karimganj and they stated that those Betel Nuts were to be delivered at Rupohi of Nagaon District, Assam. Accordingly, Kalain P.S. Case No.457/2022 was registered against the petitioner and other accused petitioners.

By order dated 01.11.2022, the Court granted interim pre-arrest bail to the petitioner in said Kalain P.S. Case No.457/2022.

Perused the case diary produced before the Court by Mr. M. P. Goswami, learned Additional Public Prosecutor, Assam.

Case diary reveals that after obtaining interim pre-arrest bail in said Kalain P.S. Case No.457/2022, the petitioner on 01.11.2022, appeared before the I.O. of the case and his statement was recorded.

Case diary also reveals that sample of said suspected Burmese Betel Nuts seized from the said truck concerned were sent to the Food Safety Office and the District Agriculture Office to ascertain as to whether, the same was fit for human consumption or not and also to ascertain the origin of those Betel Nuts to be of local or that of outside.

Case diary reveals that as per the report of the District Agriculture Office, Cachar and on physical verification of the sample with the help of available officers and staff, the same was found to be of not of local produce and the exact place of cultivation is not possible to be identified and certified.

Case diary also reveals that zimma of seized 300 bags of suspected Burmese Betel Nuts had already been handed over to the petitioner pursuant to the order of the learned Judicial Magistrate, First Class, Cachar and the Truck that was seized by police had also been handed over to its owner.

Considering the materials in the case diary and the fact that petitioner after obtaining interim pre arrest bail in said Kalain P.S. Case No.457/2022 has already appeared before the concerned I.O. of the case and co-operation with police in investigation of the case, the Court is of the view that custodial interrogation of the petitioner is not warranted to investigate said Kalain P.S. Case No.457/2022. As such, this pre arrest bail application of the petitioner is accepted.

The petitioner namely, **Sri Guljar Hussain Tapadar @ Guljar Hussain** is already on interim bail in said Kalain P.S. Case No.457/2022 granted to him earlier on 01.11.2022 and the same is hereby made absolute on the terms and conditions that the petitioner shall - **(i)** appear before the Investigating Officer of Kalain P.S. Case No.457/2022, as and when he is required for necessary investigation of said Kalain P.S. Case; **(ii)** not leave the territorial jurisdiction of the Kalain police station, without obtaining prior written permission from the

concerned Investigating Officer of the case; **(iii)** not hamper with the investigation, or tamper with the evidence of the case and **(iv)** not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer.

With the above observation and directions, this pre-arrest bail application accordingly stands allowed to the extent above.

Return the case diary.

JUDGE

Comparing Assistant