

GAHC010230422023



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

Case No. : AB/3459/2023

ALIF UDDIN
S/O SAMED ALI
VILL- NIZ LEBAR PUTA PAT-II,
P.O. AND P.S. KATIGORAH,
DIST. CACHAR, ASSAM

VERSUS

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

Advocate for the Petitioner : MR. A M BARBHUIYA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 18-10-2023

Heard Mr. A.M. Barbhuiya., learned counsel for the applicant and also heard Mr. D. Das, learned Additional Public Prosecutor for the State respondents.

2. Apprehending arrest in connection Ramnathpur Police Station Case No.

97/2023 under Sections 120(B)/420/379/411 of Indian Penal Code, this application under Section 438 Cr.P.C. is preferred by Alif Uddin for grant of pre-arrest bail.

3. The abovementioned case has been registered on the basis of one FIR lodged by one Sahir Uddin Laskar, ABC/71, of Ramnathpur Police Station on 05.07.2023. The essence of allegation made in the FIR dated 05.07.2023, is that on 04.07.2023, acting on a tip off, the informant has proceeded to Mayapur area, under Ramnathpur Police Station and on arriving at Ramnathpur they have found one Truck bearing registration number NL-01-AC-5987, in an abandoned condition and on checking the same, they found 175 (one hundred seventy five) bags of suspected Burmese betel nuts.

4. Mr. A.M. Barbhuiya, learned counsel for the applicant submits that the applicant is the registered owner of the Truck bearing registration number NL-01-AC-5987, and he has filed an application before the learned Munsiff No.1-cum-JMFC, Hailakandi seeking custody of the vehicle and the learned Munsiff No.1-cum-JMFC, Hailakandi allowed him to take the custody of the said vehicle and that, without his knowledge, the driver of the vehicle has carried the suspected Burmese suparis 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, Mr. D. Das, learned Additional Public Prosecutor has produced the case diary before this Court and submits that the materials collected so far in the case diary are inadequate to show the complicity of the applicant with the offence alleged in the FIR.

6. Having heard the submissions of the learned Advocates for both sides, I have gone through the petition and the documents placed on record and also

perused the case diary with the assistance of Mr. Das, learned Additional Public Prosecutor.

7. It appears that the materials so far collected in the case diary, fails to disclose any legally prosecutable culpability of the applicant with the offence alleged in the FIR. In view of the above and also in view of the submissions of the learned Advocates for both the parties, custodial interrogation of the applicant seems to be not warranted here in this case and therefore, this Court is inclined to allow this petition.

8. It is provided that in the event of arrest of the applicant namely, Alif Uddin, in connection with Ramnathpur Police Station Case No. 97/2023, he shall be released on pre-arrest bail on his executing a bond of Rs.50,000/- (Rupees Fifty Thousand) with one surety of like amount to the satisfaction of the arresting authority. The above privilege is, however, subject to the following three conditions:

- I) The applicant shall make himself available for interrogation by the Investigating Officer as and when required;
- II) The applicant 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 Court or to any police officer; and
- III) The applicant shall not leave the jurisdiction of the learned Chief Judicial Magistrate (CJM), Hailakandi without prior permission.

9. In terms of above, this anticipatory bail application stands disposed of. Case diary be returned.

JUDGE

Comparing Assistant