

GAHC010234562023



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

Case No. : AB/3535/2023

MAINUL HOQUE
S/O ALAL UDDIN
R/O SAHARIA GAON
P.S. MOIRABARI
DIST. MORIGAON, ASSAM

VERSUS

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

Advocate for the Petitioner : MR. S M MOLLAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 13-10-2023

Heard Mr. S. M. Mullah, learned counsel for the applicant and also heard Mr. K.K.Parasar, learned Addl. P.P. for the State respondent.

Apprehending arrest in connection with Moirabari P.S. Case No. 197/2023, under Section 120(B) /419/ 420 /379 /411 /34 IPC, this application under Section 438 Cr. P. C. is preferred by applicant, namely, Mainul Hoque, for grant of pre-arrest bail.

The above noted case has been registered on the basis of an FIR lodged by one Jitumoni Das, ASI of Moirabari P.S, on 13.9.2023.

The essence of allegation, made in the FIR, dated 13.9.2023, is that acting on a tip off the informant and other staff have checked one dumper, bearing registration No.AS-27-C-0751, which was being parked in front of H.P. Petrol Pump at Sagunbahi and found 4055 kg of suspected Burmese Suparis, concealed under crushed stones and the driver of the vehicle, Md. Mustafa failed to produce

any document in respect of the aforesaid suspected Burmese Supari.

Mr. Mullah, learned counsel for the applicant submits that the applicant is the registered owner of the Dumper from where, some of the consignment of alleged Burmese Supari were recovered and seized and the said Dumper was hired by one Ishadul Islam and said Md. Ishadul Islam is the owner of the seized betel nuts and in support of the submission, Mr. Ali has referred to one Tax Invoice, which is enclosed with the petition, at page No. 22 and that the applicant is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

On the other hand, producing the case diary before this Court, Mr. K.K. Parasar, learned Addl. P.P. has opposed the petition, on the ground that the I.O. has collected some materials in support of the allegation made in the FIR.

Having heard the submission of learned Advocates for both the parties and I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Parasar, learned Addl. P.P. for the State respondent.

The case diary indicates that the applicant is the registered owner of the vehicle from where the betel nuts were seized and from Tax invoice, which is enclosed with the petition, at Page No. 22, indicates that one Md. Ishadul Islam is the consignee of the 4050 kgs of suparies. Further it appears from the case diary that the I.O. has achieved substantial progress in the investigation of the case, and in that view of the matter, further custodial interrogation of the applicant seems to be not warranted here in this case, and therefore, this Court is inclined to allow this petition. Accordingly, it is provided that in the event of arrest of the applicant, in connection with Moirabari P.S. Case No. 197/2023, under Sections 120(B) /419/ 420 /379/ 411/34 IPC, he shall be released on pre arrest bail on his executing a bond of Rs.50,000/ with one surety of like amount to the satisfaction of the arresting authority.

The above privilege is, however, subject to the following conditions:

1. That the applicant shall make himself available for interrogation by the Investigating Officer as and when required;
2. That 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
3. That the applicant shall not leave the jurisdiction of the learned Chief Judicial Magistrate, Morigaon without prior permission.

In terms of above, this A.B stands disposed of .

Case diary be returned.

JUDGE

Comparing Assistant