

GAHC010238162023



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

Case No. : AB/3573/2023

SHAHIDUL ALI
S/O MATIBAR ALI
VILL- POPRAGAON, PART-I
P.O. AND P.S. BONGAIGAON
DIST. BONGAIGAON, ASSAM
PIN-783380

VERSUS

THE UNION OF INDIA
REP. BY THE STANDING COUNSEL, RAILWAY

Advocate for the Petitioner : MR. M U MAHMUD

Advocate for the Respondent : DY.S.G.I.

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

17.10.2023

Heard Mr. M.U. Mahmud, learned counsel for the applicant and Mr. K.K. Parasar, learned Central Government Counsel [CGC] for the respondent.

2. Apprehending arrest in connection with the **RPF/POST/NBQ Case No. 07/2023**, under Section 3[a] of the RP [UP] Act, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicant namely, **Shahidul Ali** for grant of pre-arrest bail.

3. It is to be noted here that the said case has been registered on the basis of one FIR lodged by Abhiraj Kumar Sinha, on 09.08.2023. The essence of allegations made in the FIR is that on that day on checking the Train No. UP/DN Rail Loco No. 49328 WDG4G [shed. Gandidham], found 350 Ltr. of fuel missing from the engine.

4. Mr. Mahmud, learned counsel for the applicant submits that the applicant is no away involved with the offence alleged in the FIR and that nothing has been recovered from the possession of the present applicant and as per seizure list, 350 Ltr. of fuel were recovered from the house of one Emamul Ali. Mr. Mahumud further submits that the wife of the applicant has given birth of a baby about two months back and there is none to look after them and that he is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, by producing the Case Diary before this Court, Mr. Parasar, learned CGC submits that the IO has collected sufficient incriminating materials against the applicant and his custodial interrogation is necessary in the interest of investigation and also to arrest the other co-accused and therefore, it is contended to dismiss the petition.

6. 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 produced before this Court with the assistance of Mr. Parasar, learned CGC.

7. It appears that the IO has collected sufficient incriminating materials against the applicant. It is a fact that from his possession nothing has been recovered, but he along with one Emamul Ali and other co-accused persons had

committed the theft of fuel from the Train Engine and they are habituated to the same and his custodial interrogation is necessary in the interest of investigation.

8. Accordingly this Court is of the view that this is not a fit case where the privilege of pre-arrest bail can be extended to the applicant and therefore, the same stands dismissed.

9. Case diary be returned.

Comparing Assistant

JUDGE