

GAHC010238432023



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

Case No. : Bail Appln./3795/2023

ANGSHU DUTTA AND ANR
S/O ANUJ KUMAR DUTTA
VILL- DASGRAM
P.S. NILAMBAZAR
DIST. KARIMGANJ, ASSAM
PIN-788722

2: NAKIB AHMED CHOUDHURY
S/O LATE ABDUL MUTLIB CHOUDHURY
VILL- GANDHAI DASGRAM
P.S. NILAMBAZAR
DIST. KARIMGANJ
ASSAM
PIN-78872

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR H R CHOUDHURY

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN**

ORDER

16.10.2023

Heard Mr. H.R. Choudhury, learned counsel for the applicants and also heard Mr. K. Baishya, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application under Section 439 Cr.P.C. is preferred by two accused persons, namely, (1) Angshu Dutta and (2) Nakib Ahmed Choudhury, who have been languishing in jail hazot in connection with Nilambazar P.S. Case No. 158/2023, under Sections 120(B)/420/409/379/411 IPC read with Section 7 of the Essential Commodities Act for grant of bail.

3. It is to be noted here that the above noted case has been registered on the basis of an FIR lodged by S.I. Dipjyoti Malakar of Nilambazar Police Station on 17.09.2023.

4. The essence of allegation made in the FIR is that the Secretary of Gandhai Brahmansahan Co-Operative Society, located at Lalpool near FCI godown, under Nilambazar Police Station, Karimganj namely Ramayanshu Bhattacharjee and some of the agents, namely, Angshu Dutta, Nekib Ahmed Choudhury, Abdul Hannan, Ashutos Nath, Moloi Chandra, Keshab Teli, Sumon Kanti Das, Mrinal Singha, Subuth Sarma, Kamlu Kanta Ghose and Samiram Biswas are involved in unfair and corrupt practice of misappropriating PDS rice meant for beneficiaries by distributing low quality of rice by procuring the same from local market.

5. Mr. Choudhury, learned counsel for the accused persons submits that both the accused were arrested on 18.09.2023, and since then they are languishing in jail hazot and one of the co-accused, namely, Ashutos Nath, who is also an agent of the said Samabai Samittee has already been enlarged on bail by this Court in Bail Application No. 3518/2023, vide order dated 11.10.2023, and that the accused is ready to cooperate with the investigating agency and, therefore, it is contended to allow this petition.

6. On the other, Mr. K. Baishya, learned Additional Public Prosecutor submits that the Investigating Officer has collected sufficient materials in support of the allegation made in the FIR and, therefore, Mr. Baishya has opposed the petition.

7. Having heard the submission of learned Advocates for both the sides, I have carefully gone through the petition and the documents placed on record and also perused the case diary with the

assistance of Mr. Baishya, learned Additional Public Prosecutor.

8. The case diary indicates that both the accused are the Agents of the aforesaid Samabai Samitee and they are languishing in jail hazot since 18.09.2023 i.e. for the last 30 days. The case diary also indicates that the Investigating Officer has achieved substantial progress in the investigation of this case and the main culprit the Secretary of the said Co-operative Society has also been arrested.

9. Having regards to the role played by the accused persons in committing the offence and also having regards to the period of detention and balancing the same with the nature and gravity of the offence, this Court is of the view that further custodial detention of the accused persons may not be required in the interest of investigation. And therefore, this Court is inclined to allow this bail petition. Accordingly, it is provided that on furnishing a bond of Rs.50,000/- (Rupees Fifty Thousand) each with one surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Karimganj, the accused persons be enlarged on bail.

10. In terms of the above, the petition stands disposed of. The case diary be returned.

JUDGE

Comparing Assistant