

GAHC010240322023



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

Case No. : AB/3601/2023

DILCHAD ALI
S/O LATE AFSAD ALI KHA,
R/O KABAITARI PART-IV,
P.S. JUGIGHOPA
DIST. BONGAIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR JITENDRA DAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 18-11-2023

1. Heard Mr. S Deka, learned counsel for the applicant and also heard Mr. K. K. Parashar, learned Additional PP, appearing for the State of Assam.
2. This application under Section 438 of the Cr.P.C. is preferred for the third time, by the applicant, namely, Dilchand Ali for grant of pre-arrest bail,

who has been apprehending arrest in connection with the BI (EO) P.S. Case No.21/2021, under Sections 120(B)/420/406 of the Indian Penal Code, read with Section 7 of the E.C. Act.

3. The said case has been registered on the basis of an FIR, lodged by Dilip Kr. Deka, Superintendent of FCS & CA, BI(EO), Assam, Guwahati on 01.12.2021. The allegation leveled in the FIR against the accused relates to illegal storage and selling of PDS/TPDS rice in his shop and godown premises, on 18.11.2021.

4. Mr. Deka, learned counsel for the applicant submits that the this is the third bail application preferred by the applicant Dilchad Ali on the following two grounds:

- I. That the case was registered in the year 2021 and since then the IO got sufficient time for investigation and in the meantime the investigation might have been completed.
- II. That the applicant had received one notice from the IO concerned under section 41(A) Cr.P.C and pursuant to the said notice he had appeared before the IO and he had been cooperating with the investigating agency.

5. Further Mr. Deka, learned counsel for the applicant, submits that the applicant is a businessman and he deals with the business of rice and he purchased the rice from the beneficiaries of the PDS rice and he is no way involved with the offence alleged in the FIR and he has been cooperating with the investigating agency and thereafter it is contended to allow the petition.

6. On the other hand Mr. K K Parashar, learned Addl. PP has produced the case diary before this Court and submits that the IO has collected some materials in support of the allegation made in the FIR and that the expert

opinion collected by IO confirmed that the seized rices were of PDS rice. Mr. Parashar, however confirmed that pursuant to the notice issued under section 41(A) Cr.P.C., the applicant had appeared before the IO and he has been cooperating with the investigating agency and that the investigation of the case has substantially been progressed.

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

8. It appears that the first anticipatory bail application being AB No.4285/2021 was dismissed by this Court vide order dated 25.01.2022, and the second bail anticipatory bail application being AB No.3674/2022 was dismissed by this Court vide order dated 28.12.2022. This application is preferred on the ground of cooperation being extended by the applicant to the investigating agency pursuant to the notice under section 41(A) Cr.P.C and also in view of getting sufficient time by the IO in investigation of the case since the case was registered in the year 2021.

9. The case diary indicates that the IO has collected sufficient incriminating materials against the applicant and the report of the expert also indicates that 330 quintal of rice was seized from the shop cum godown premises of the applicant are PDS rice. However, as contended by Mr. Deka, learned counsel for the applicant, the IO got sufficient time for investigation. And it also appears that the applicant has been cooperating with the investigating agency since he had appeared before the IO pursuant to the notice under section 41(A) Cr.P.C. Further, case diary indicates that the IO has achieved substantial progress in the investigation of the case.

10. In view of above, 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 the applicant above named, in the event of his arrest in connection with the aforementioned case, shall be enlarged on pre arrest bail on furnishing a bail bond of Rs.50,000/- with one suitable surety of the like amount to the satisfaction of the arresting authority.

11. The above privilege of the pre-arrest bail is, however, subject to the following conditions.

1. The applicant shall appear before the officer in charge of the concerned PS within a period of 10 days.
2. 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 them from disclosing such facts to the Court or to any police officer.
3. The applicant shall not leave the territorial jurisdiction of learned CJM, Kamrup (M) without prior permission.

JUDGE

Comparing Assistant