

GAHC010242872023



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

Case No. : AB/3635/2023

TIPU SULTAN KHAN
S/O AFTAB UDDIN KHAN
R/O PALAICHERRA PART-II
P.S. RAMNATHPUR
DIST. HAILAKANDI, ASSAM

VERSUS

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

Advocate for the Petitioner : MR H R A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

16-11-2023

Heard Mr. A Ahmed, learned counsel for the petitioner. Also Mr. M P Goswami, learned Additional Public Prosecutor, Assam for the State.

2. By this application under Section 438 CrPC, the petitioner, namely, **Tipu Sultan Khan** has prayed for his pre arrest bail in Ramnathpur Police Station Case No. 52/2023 registered under Sections 457/380 IPC.

3. Earlier the petitioner approached this Court for his pre arrest bail in said Ramnathpur P.S. Case No. 52/2023 in AB No. 1736/2023 as well as AB No. 2137/2023 respectively and the Court by orders dated 30.05.2023 and 20.07.2023 respectively, rejected those two pre arrest bail applications preferred by him.

4. However, the Court by order dated 19.10.2023 passed in the present proceeding granted interim bail to the petitioner, named above, in said Ramnathpur P.S. Case No. 52/2023.

5. Mr. Goswami, learned APP from the Case Diary has submitted that the petitioner on 26.10.2023 appeared before the concerned Investigating Officer of Ramnathpur P.S. Case No. 52/2023, wherein he was arrested and released on bail pursuant to the interim order dated 19.10.2023 passed in the present proceeding.

6. Matter relates to seizure of 530 bags of foreign origin Beetle Nuts from two wagons of Bhairavi-Silchar passenger train at Bairavi Railway Station weighing in total 37,100 Kgs. Those seized Beetle Nuts were kept at Balda Baldi Community Hall at Jamira by locking and sealing the said hall that is under the jurisdiction of Ramnathpur Police Station.

7. With regard to such seizure of 37,100 Kgs. of foreign origin Beetle Nuts in 530 bags from Bhairavi-Silchar passenger train, Badarpur GRPS Case No. 33/2022 under Sections 120(B)/420/471/413/34 IPC was already registered.

8. When the authorities on 03.04.2023 went to auction those seized Beetle Nuts that were kept under lock and key in said Balda Baldi Community Hall at Jamira, out of 530 bags, 510 nos. of bags containing those Beetle Nuts kept in the said community hall were found stolen/missing and accordingly, Ramnathpur P.S. Case No. 52/2023 was registered under Sections 457/380 IPC.

9. Mr. Goswami, learned APP has submitted that the co-accused arrested in the case have already implicated the petitioner and others who are absconding.

10. However, it is found that there is no such submission on the part of the concerned Investigating Officer of the case that the petitioner has violated the conditions of the interim bail granted to him earlier on 19.10.2023 or that he did not co-operate with the investigation of said Ramnathpur P.S. Case No. 52/2023.

11. Considering the same, the interim bail granted to the petitioner earlier on 19.10.2023 in said Ramnathpur P.S. Case No. 52/2023 is hereby made absolute.

12. However, the petitioner shall comply with the terms and conditions as specified in the order dated 19.10.2023 passed earlier in the present proceeding and further, shall co-operate with the investigation of said Ramnathpur P.S. Case No. 52/2023.

13. Failure on the part of the petitioner to comply with any of the terms and conditions as specified in the order dated 19.10.2023 passed earlier in the present proceeding and if the petitioner is found not cooperating in the investigation, it is made clear that the bail granted to him in said Ramnathpur P.S. Case No. 52/2023 shall stand vacated.

14. In such circumstance, the concerned Investigating Officer of Ramnathpur P.S. Case No. 52/2023 shall be at liberty to file application for cancellation of bail granted to the petitioner in the said case.

15. This pre arrest bail application stands allowed to the extent above.

16. Case Diary be returned.

JUDGE

Comparing Assistant