

GAHC010254552022



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

Case No. : AB/3706/2022

SULEMAN HOQUE
S/O- MOHAMMAD NAYAB ALI, R/O- WARD NO.4, HOWLY TOWN, P.S.
BARPETA, ASSAM- 781318, DIST.- BARPETA, ASSAM, PIN- 781314

VERSUS

THE STATE OF ASSAM
REP. BY P.P., ASSAM

Advocate for the Petitioner : MS. T SOM

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

09.01.2023

Heard Ms. T. Som, learned counsel for the applicant and Mr. B.B. Gogoi, learned Additional Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with Basistha P.S. Case No. 868/2022, under Sections 120(B)/420/468/471 of the IPC read with section 7 of the EC Act, this

application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicant, namely, Suleman Hoque for grant of pre-arrest bail.

3. The said case has been registered on the basis of one F.I.R., lodged by one Ananda Kishor Kanu, Inspector of FCS & CA, Kamrup [M], Guwahati, to the effect that on that day he has intercepted one Truck, near Ganesh Mandir, Khanapara at around 6.30/6.40 am and found 480 bags of rice, being carried in the said Truck and the driver of the Truck fled away from the Truck and accordingly, he has seized the said Truck and the 480 bags of rice, preparing seizure list.

4. Ms. Som, learned counsel for the applicant submits that the applicant is the owner of the Truck and no way involved with the offence alleged in the FIR, and therefore, it is contended to allow the petition.

5. On the other hand, Mr. Gogoi, learned Additional Public Prosecutor, submits that the Truck and the 480 bags already been seized by the IO and the petitioner is the owner of the vehicle and the IO has achieved substantial progress in the investigation of the case.

6. Having heard the submissions of learned Advocates of both sides, I have carefully perused the petition and the documents placed on the record and also perused the case diary with the assistance of Mr. Gogoi.

7. It is not in dispute that the petitioner is the registered owner of the vehicle from where the 480 numbers of bags were seized by the IO. The Truck has already been released by this court, vide order dated 06.12.2022, in favour of the petitioner, which

is annexed with the petition as Annexure-4. Further it appears that the sample of rice collected from the 480 bags of rice, were sent to the FSL for examination and as per the report it could not be ascertained whether the seized rice is of PDS rice or not.

8. In view of above, and also in view of the materials available in the case diary, and also in view of the submission of learned counsel for both the parties, this court is of the view that custodial interrogation further detention of the applicant seems to be unwarranted here in this case. Accordingly, it is provided that in the event of arrest of the applicant, in connection with Basistha P.S. Case No. 868/2022, under Sections 120(B)/420/468/471 of the IPC read with section 7 of the EC Act, he shall be enlarged on pre-arrest bail, on his executing a bond of Rs. 50,000/- only with one surety of like amount to the satisfaction of the arresting authority.

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

(i) that the applicant shall make himself available for interrogation by the Investigating Officer as and when required;

(ii) 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

(iii) that the applicant shall not leave the jurisdiction of the learned learned CJM, Kamrup [M] at Guwahati, without prior permission.

10. In terms of above this AB stands disposed of.

11. The case diary be returned.

JUDGE

Comparing Assistant