

GAHC010257092022



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

Case No. : AB/3696/2022

NUR MAHAMMAD@CHAKRA
S/O- SAMSER ALI,
R/O- KATHIATOLI CHARIALI,
VILLAGE- NARAYANPUR FARM SUPA,
P.O AND P.S- MUKALMUA,
DIST- NALBARI, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR N AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN
ORDER

04.01.2023.

Heard Mr. D. Das, learned counsel for the accused. Also heard Ms. S.H. Bora, learned Addl. P.P., Assam appearing for the State respondent.

Apprehending arrest in connection with the Mukalmua P.S. Case No.574/2022, under Sections 379/411 of the IPC, read with Section 7 of the Essential Commodities Act, this application under Section 438 of the Code of Criminal

Procedure, 1973, is preferred by applicant, namely, Nur Mahammad @ Chakra, for grant of pre-arrest bail.

The said case has been registered on the basis of an F.I.R., lodged by one Paresh Das on 16.11.2022, to the effect that on 15.11.2022, in the evening he was attending duty with other VDP members and then, in the Sathyabari Village, they have intercepted one Tempo with 15 bags of suspected PDS rice and the driver of the said Tempo fled away, while they have signaled to stop the Tempo.

Mr. D. Das, learned counsel for the applicant submits that 15 bags of suspected rice, was in fact PDS rice and the same belongs to one Baloram Das, who is the owner of a fair price shop and he collected the same from the Pub-Barkhetri Samabai Somity Ltd., to deliver the same in the fair price shop of Baloram Das and he is no way involved with the offence as alleged in the FIR and he is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

On the other hand, by producing the Case Diary before this Court, Ms. S.H. Bora, learned Addl. P.P., Assam submits that investigation is still going on and the sample of the seized rice has already been collected and sent to the FSL and the report is still awaited and since investigation is yet to be completed, Ms. Bora has opposed the petition.

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 Ms. Bora, learned Addl. P.P., Assam.

In view of the materials collected so far in the case diary as well as the submission of learned Advocates of both sides and also considering the nature

of accusation and punishment prescribed for the same, this Court is inclined to allow the petition, as the custodial interrogation of the applicant seems to be not warranted in the interest of investigation.

Accordingly, it is provided that in the event of arrest of the applicant, named above, in connection with the Mukalmua P.S. Case No.574/2022,, he shall be enlarged on pre-arrest bail, on his executing a bond of Rs.25,000/- (Rupees twenty five thousand) only, with one surety of like amount to the satisfaction of the arresting authority.

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 CJM, Nalbari, without prior permission.

In terms of above, this anticipatory bail application stands disposed of.

The Case Diary be sent back.

JUDGE

Comparing Assistant