

GAHC010259102022



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

Case No. : Bail Appln./3520/2022

MD KHAJAAMUDDIN ANSARI
S/O- LATE MUHMMAD ANSARI, R/O- VIGAH JAMIN VIGAH, P.O- UBHAON,
DIST- BALLIA, UTTAR PRADESH

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR I RAFIQUE

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY
ORDER

06.01.2023

Heard Ms. R.R. Saikia, learned counsel for the accused-petitioner and Mr. B. Sarma, learned Additional Public Prosecutor for the respondent State of Assam.

2. By this application under Section 439, Code of Criminal Procedure, 1973 [Cr.PC], the accused-petitioner viz. Md. Khajaamuddin Ansari has prayed for his release on bail in connection with Halwating Police Station Case no. 20/2022, registered for the offences under Sections 120B/379/413/468/420, Indian Penal Code [IPC].

3. The accused-petitioner was arrested and produced before the Court of learned Chief Judicial Magistrate, Sivasagar, Assam on 29.11.2022 and on being so produced, he was

remanded to custody.

4. The First Information Report [FIR] was lodged by a Sub-Inspector of Police, attached to Halwating Police Station, pursuant to General Diary Entry no. 462 dated 28.11.2022. As per the FIR, when *Naka* Checking was carried out on the National Highway no. 61 near Amguri Tea Estate Chariali on 28.11.2022, two trucks bearing registration no. PB-05-AL/4737 & HP-38/G-8397 which were proceeding from Nagaland side towards Assam, were intercepted and searched on suspicion. When the drivers of the two trucks were asked, they stated that they were carrying dry betel nuts from Nagaland and the same would be delivered at Guwahati and Kolkata. On being asked to produce valid documents for the betel nuts, they produced some documents which were suspected to be a forged ones. When search was carried out in the two trucks, 339 bags and 280 bags of betel nuts, suspected to be of foreign origin, were recovered and seized. 5 [five] nos. of persons were also apprehended at the spot which included two drivers of the two trucks and one handyman. The other two accused persons were apprehended on the basis of information given by the drivers of the two trucks. The other two were found following the two trucks in a four-wheeler vehicle [Tiago] bearing registration no. AS-04/AA-9707.

5. The accused-petitioner, Md. Khajaamuddin Ansari was one of the drivers of the trucks.

6. Mr. Sarma, learned Additional Public Prosecutor who has received the case diary, has submitted that there is a report from the Superintendent of Taxes, Circle-IV, Sivasagar to the effect that the invoices/e-way bills were in the name of some third party whose existence cannot be ascertained till date despite efforts.

7. From the statements of the arrested accused-persons, it has emerged that it was at the instruction of the arrested accused person, Md. Rafiquiddin Ahmed, the drivers of the two trucks had loaded the consignments of betel nuts, suspected to be of foreign origin. In so far as the accused-petitioner, Md. Khajaamuddin Ansari is concerned, he was the driver of one of the two trucks carrying the consignments of betel nuts but there are no sufficient materials to suggest that he was either the owner of the consignments of betel nuts or in any manner instrumental in procurement and distribution of the betel nuts, except in the capacity of a driver of one the two trucks carrying the consignments of betel nuts.

8. Considering the above materials in the case diary and the period of custody of the accused-petitioner, Md. Khajaamuddin Ansari, since 29.11.2022, this Court is of the considered view that further custodial detention of the accused-petitioner is not necessary for the purpose of carrying out further investigation of the case and his release on bail, at this stage of investigation, is unlikely to bring any adverse effect in the further investigation of the case, provided he continues to extend his assistance and co-operation in the further investigation of the case.

9. Accordingly, it is directed that the accused-petitioner shall be released on bail on furnishing a bail bond of Rs. 50,000/- with one local surety of the like amount to the satisfaction of the learned Chief Judicial Magistrate, Sivasagar subject to the conditions that :-

[i] the accused-petitioner shall co-operate with the investigation and make himself available for interrogation whenever required by the Investigating Officer [I.O.] of the case;

[ii] the accused-petitioner shall not, directly or indirectly, make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer;

[iii] the accused-petitioner shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;

[iv] the accused-petitioner shall maintain law and order and he shall not commit an offence similar to the offence of which he is accused, or of the commission of which he is suspected; and

[v] the accused-petitioner shall regularly remain present during the trial and co-operate the Court to complete the trial for the above offences, if charge sheeted in the case.

10. The bail application stands disposed of in the aforesaid terms.

JUDGE

Comparing Assistant