

GAHC010264782022



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

Case No. : AB/3832/2022

AMINUL HAQUE
S/O AZAD ALI, R/O VILL-DUMUNICHOWKI, P.S.-SIPAJHAR, DIST-
DARRANG, ASSAM, PIN-784145

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. S ISLAM

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

02.02.2023

Heard Mr. S. Islam, learned counsel for the accused and Mr. K.K. Parasar, learned Addl. P.P. for the State respondent.

2. Apprehending arrest in connection with the BI[EO] P.S. Case No. 28/2022, under Sections 120[B]/379/411/285 of the IPC read with section 23 of

the Petroleum Act and 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, Aminul Haque, for grant of pre-arrest bail.

3. The said case has been registered on the basis of an FIR lodged by one Dilip Kumar Deka, on 21.10.2022, to the effect that acting on tip off he has conducted an enquiry at Dumunichowki, Darrang, Mangaldoi and visited the resident/godown of Aminul Haque and found one Tank Truck Lorry loaded with MS & HSD, bearing registration No. AS-01-MC-8851 and also found decanting/cutting of HSD/MS from the said Tank Truck to plastic jerricans/barrels for selling in open market illegally by the driver of the said Tank Truck namely, Sri Bhuban Chetry with the help of the present accused, Aminul Haque.

4. Mr. Islam, learned counsel for the accused submits that this is the second bail application preferred by the accused and the first one was rejected by this court vide order dated 24.11.2022, in AB No. 3329/2022, after perusing the case diary. Mr. Islam further submits that the fresh ground for filing of this second bail application is that the wife of the accused is suffering from ailments and also she has given birth of a baby and there is none to look after her except the petitioner. Mr. Islam also submits that he is ready to cooperate with the investigating agency and his custodial interrogation may not be required in the interest of investigation, and therefore, it is contended to allow this petition.

5. On the other hand Mr. Parasar, learned Addl. P.P. has produced the case diary before this court and submits that the first bail application was rejected by this court vide order dated 24.11.2022, in AB No. 3329/2022, after perusing the

case diary and the ground assigned for filing this second bail application is not at all satisfactory. Mr. Parasar further submits that the investigation is still going on and enlarging the accused on bail will misdirect the investigation, and therefore, it is contended to dismiss the petition.

6. Having heard the submission of learned counsel for both the parties, I have carefully gone through the petition as well as the documents placed on record and perused the case diary with the assistance of Mr. Parasar, learned Addl. P.P. and also perused the order dated 24.11.2022, in AB No. 3329/2022.

7. Though, an attempt is being made to persuade this court for entertaining this second application by stating that the wife of the applicant is suffering from ailments and that one month back she has given birth of a baby and there is no one in the family to look after her, yet, the medical document submitted along with the petition reveals that the wife of the applicant has already been discharged from the hospital on 28th November, 2022 and no medical document is enclosed with the petition to indicate that at present she has been suffering from any serious ailments. Therefore, the ground, so assigned for filing this second application is found to be not at all convincing. It is to be noted here that investigation of the case is still going on and at this stage it cannot be said that the custodial interrogation of the applicant is not required in the interest of investigation of this case.

8. The learned counsel for the applicant has also produced one medical document of the wife of the applicant before this court to justify the new grounds, but having gone through the same I find that the wife of the applicant has already been released from hospital on 04.11.2022, and the said medical

document also fails to indicate that the wife of the applicant is suffering from any serious ailments which requires urgent medical attention.

9. Under the aforesaid facts and circumstances and also in view of the materials, collected so far in the case diary, this court is inclined to dismiss the petition and accordingly, the same stands dismissed.

10. The case diary be returned.

JUDGE

Comparing Assistant