

GAHC010005272024



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

Case No. : AB/108/2024

SATINDER PAL BHATIA
S/O LATE HANS RAJ BHATIA
R/O A-108, ASHOK VIHAR, PHASE-2, NORTH WEST DELHI, PIN-110052

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR W R MEDHI

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND
ORDER

14.06.2024

Heard Mr. W. R. Medhi, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor for the State.

2. This application under Section 438 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, Satinder Pal Bhatia, who is apprehending his arrest in connection with STF P.S. Case No. 10/2023 under Sections 120B/420/468/409/403/109 of the Indian Penal Code.

3. The gist of accusation in this case is that on 03rd August, 2023, one Bidyut Jyoti Kalita, Assistant Commissioner of State Tax, Guwahati had lodged an FIR before the Officer-in-Charge of STF Police Station, inter alia, alleging that on receipt of information through reliable sources that on 1st of August, 2023 huge consignment of Gutkha, Pan Masala, Zarda etc., are being carried in Wagon No. 10209 and 60788 of Train No. L/NO05(43BCN MIXED) from Delhi to Guwahati. It is alleged that the said consignment has been sent by some businessmen by avoiding taxes and by putting the Government at loss by paying less taxes. Accordingly, 341 bags of Gutkha, Pan Masala, Zarda etc., was seized from the said Wagon at Azara Railway Station and during the verification process, names of two persons, namely, Uday Chaurasia and Subodh Singh came to light that they have been involved in the illegal activities.

4. Learned counsel for the petitioner has submitted that the present petitioner has not been named in the FIR, but he runs the business of packaging of materials at Delhi. Learned counsel for the petitioner has submitted that the petitioner is an old and ailing person of 80 years of age. However, on 12.12.2023, he received a notice from the Investigating Officer of the instant case under Section 41A of the Code of Criminal Procedure wherein it has been mentioned that the present petitioner is the consigner of 170 plastic bags which were recovered from the aforementioned Wagoner.

5. Learned counsel for the petitioner has submitted that the invoices mentioned in Section 41A notice received by him does not tally with any of the consignment connected with his business and, therefore, he has suspected that some forgery has been

committed and, accordingly, on 24.12.2023, he informed the SHO P.S. Bara Hindu Rao Nawabganj Pul Bangash, Delhi.

6. Learned counsel for the petitioner has submitted that the petitioner is in no way involved in the offence alleged in the FIR and as he is an old and ailing person, suffering from various multiple joint pain, with deformity of feet bones along with poor vision and is not in a position to visit Guwahati. However, as the 41A notice has mentioned that the invoices mentioned therein are allegedly in respect of the consignment, therefore, he is apprehending arrest in connection with this case.

7. Learned counsel for the petitioner has also submitted that considering his health condition, he may be given some time to appear before the Investigating Officer and he is willing to cooperate with the investigation.

8. Learned counsel for the petitioner has also submitted an additional affidavit, and through the Annexure-A, additional affidavit, the learned counsel has substantiated his statement that the petitioner made every endeavour to get his statement recorded by the IO, but his statement could not be recorded by the IO.

9. I have considered the submissions at the Bar with circumspection. .

10. I have also considered the age of the petitioner. The petitioner has made every endeavour to get his statement recorded by the IO. The petitioner is willing to get his statement recorded by the IO by any means and if possible through electronic mode.

11. The petitioner has not violated any bail conditions.

12. The Case Diary reveals that investigation has progressed to a considerable extent.

13. It appears that custodial interrogation of the petitioner may not be required.
14. In view of my foregoing discussions, the interim pre-arrest bail order dated 12.01.2024, is hereby made absolute, under the conditions that-

- i) the petitioner shall get his statement recorded within 15 days, and
- ii) the petitioner is to abide by the other bail conditions imposed upon him, vide order dated 12.01.2024.

On breach of any bail conditions, bail order shall stand cancelled.

15. Bail Application stands disposed of.
16. Send back the Case Diary.

JUDGE

Comparing Assistant