

GAHC010014812024



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

Case No. : AB/102/2024

JOYDUL ALI
S/O- HABIBAR RAHMAN
R/O- VILL. GOSSAIGAON
P.S. MANIKPUR
DIST. BONGAIGAON
ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR
ASSAM

Advocate for : MR. M KHAN
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

07.02.2024

Heard Mr. M. Khan, learned counsel for the applicant and Mr. R.J. Barua, learned Additional Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with **Manikpur P.S. Case No. 223/2023**, under Sections 379/411 of the IPC, this application under Section 438

of the Code of Criminal Procedure, 1973, is preferred by applicant namely, **Joydul Ali** for grant of pre-arrest bail.

3. The said case has been registered on the basis of one F.I.R., lodged by one Manoj Sharma, on 25.12.2023. The essence of allegations made in the FIR is that on 18.12.2023, 700 bags of star cement PPC/OPC were loaded in a vehicle, bearing registration No. RJ-52-GA-3974, of A.B. Logistic to deliver the same at Advance Enterprise, Bijni. But, the driver cum owner of the said vehicle did not deliver the material to the party and sold the same to unknown miscreants.

4. Mr. Khan, learned counsel for the applicant submits that this Court was pleased to grant interim protection to the applicant, vide order dated 12.01.2024, and pursuant to the said order, the applicant had appeared before the IO and also cooperating with the investigating agency and therefore, it is contended to make the interim order dated 12.01.2024, absolute in the same terms and conditions.

5. On the other hand Mr. Barua, learned Additional Public Prosecutor by producing the case diary submits that the IO has collected sufficient incriminating materials against the accused. Mr. Barua further submits that the present applicant is the person who has managed the 400 bags of cement to the other co-accused namely, Jahidul Islam and that 379 numbers of bag of stolen cement have been recovered from the co-accused namely, Jahidul Islam. Mr. Barua also submits that the investigation is still going on and that the offence is serious in nature and therefore, it is contended to dismiss the petition.

6. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition as well as the documents placed on record and also perused the Case Diary with the assistance of learned Additional Public Prosecutor.

7. The case diary indicates that the IO has collected some incriminating

materials against the applicant. Further, it appears that out of 700 numbers of bag of cement, 379 numbers of bag of cement have been recovered from the possession of the co-accused namely, Jahidul Islam and remaining bags of the stolen cement are yet to be recovered. It also appears that the investigation is still going on and other co-accused are to be arrested and therefore, this Court is of the view that the custodial interrogation of the applicant is indispensable.

8. In view of above, this Court is of the considered opinion that this is not a fit case where the privilege of pre-arrest bail can be granted to the applicant. Accordingly, the petition stands dismissed and the interim order dated 12.01.2024, stands **vacated**.

9. The case diary be returned.

Comparing Assistant

JUDGE