

GAHC010043202024



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

Case No. : AB/541/2024

SULTAN UDDIN
S/O- INTAJ ALI, VILL- SARASPUR AMTALA, P.S. KADAMTALA, DIST-
NORTH TRIPURA, TRIPURA

VERSUS

THE STATE OF ASSAM
TO BE REPRESENTED BY THE P.P., ASSAM

Advocate for the Petitioner : MR F A LASKAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

08.05.2024

Heard Mr. F.A. Laskar, learned counsel for the applicant and Mr. B.B. Gogoi, learned Additional Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with the **Kalain P.S. Case No. 499/2023**, under Section 20(c) of the NDPS Act, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicant namely, **Sultan Uddin** for grant of pre-arrest bail.

3. It is to be noted here that the said case has been registered on the basis of one F.I.R., lodged by S.I. (P) Pranjal Lakra, on 05.10.2023. The essence of allegation made in the FIR is that on 05.10.2023, at about 2:15 am, acting on a tip off the informant along with this staff, have intercepted one vehicle, bearing registration No. TR-01-AR-1815, which was coming towards Meghalaya and after checking the vehicle they have recovered 1728.23 kgs of suspected Ganja and seized the same in presence of witnesses.

4. Mr. Laskar, learned counsel for the applicant submits that the applicant is the registered owner of the aforesaid vehicle and he purchased the same from TATA Finance Limited on hire purchase and he had paid the EMI. Mr. Laskar further submits that vide agreement dated 03.06.2023, the present applicant had leased the vehicle to one Nilu Sharma on the condition that he will pay the EMI @ Rs.99,180/- to the finance company. Mr. Laskar also submits that the applicant is innocent and no way involved with the offence alleged in the FIR and that he is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, by producing the case diary before the court and by referring to the materials collected so far in the same, Mr. Gogoi, learned Additional Public Prosecutor submits that the applicant is the registered owner of the vehicle, from where the contraband substances were recovered and as per his own document, Annexure – 4 of the petition, he had paid EMI till 31.09.2023. Mr. Gogoi further submits that the I.O. has collected sufficient incriminating materials against the applicant and therefore, it is contended to dismiss the petition.

6. Having heard the submission 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 produced before this Court with the assistance of learned Additional Public Prosecutor.

7. It appears from the case diary that the informant and his staff have seized 1728.23 Kgs of suspected Ganja from the vehicle, bearing registration No. TR-01-AR-1815, which was coming towards Meghalaya and admittedly the present applicant is the registered owner of the same. Though Mr. Laskar, learned counsel for the applicant submits that pursuant to an agreement 03.06.2023, Annexure – 3, the present applicant had given the vehicle to one Nilu Sharma on the condition that he will pay the EMI @ Rs. 99,180/- to the finance company, yet, the same is neither a registered agreement nor a sale deed, so as to place implicit reliance up on the same. Further, it also appears from the case diary that the present applicant is still the registered owner of the aforesaid vehicle and the said vehicle was blacklisted by the DTO of North Tripura, for transportation of illegal substances.

8. Indisputably, also the quantity of contraband substances recovered reasonable from the vehicle is of commercial quantity and the applicant has failed satisfy the requirement of Section 37 of the NDPS Act, that there is no ground for believing that he is not guilty of the offence alleged in the FIR and that he will not commit any offence while on bail.

9. Under the aforementioned facts and circumstances, this Court is of the view that this is not a fit case where the privilege of pre-arrest bail can be extended to the applicant and therefore, the same is dismissed.

10. The case diary be returned.

JUDGE

Comparing Assistant