

GAHC010070202024



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

Case No. : AB/908/2024

INAMUL HOQUE
S/O LT ROFIQUL ISLAM, R/O VILL- ULUBARI, P.O.-DOLOIGAON, P.S.-
BHELOWGURI, PIN-782126, DIST- MORIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR M H AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 25.06.2024

Heard Mr. M.H. Ahmed, learned counsel for the petitioners. Also heard Mr. R.R. Kaushik, learned Additional Public Prosecutor for the State respondent.

2. This application has been preferred under Section 438 of Code of Criminal Procedure, 1973, by the petitioner, namely, Inamul Hoque who is apprehending his arrest in connection with Moirabari P.S. Case No. 29/24 registered under Sections

120B/420/406/409/34 of IPC r/w Section 7 of Essential Commodities Act.

3. The gist of the accusation in this case against the present petitioner is that on 20.02.2024 one Rupam Bayan, inspector of FPD&CA, Morigaon had lodged an FIR before the Officer-in-charge of Moirabari Police Station *inter-alia*, alleging that five numbers of executive members of M/s Doloigaon S.S. Ltd. have illegally and unauthorizedly diverting MDM rice from the GPSS godown into the black market for illegal monetary gain. On receipt of the said FIR, Moirabari P.S. Case No. 29/24 was registered.

4. The learned counsel for the petitioner has submitted that the allegations made against the present petitioner in the FIR are not true. It is also submitted by the learned counsel for the petitioner that out of five accused persons named in the FIR including the present petitioner, four of them were already granted bail by the court of learned Judicial Magistrate 1st Class, Morigaon on 06.03.2024 in bail petition No. 137/2024. The learned counsel for the petitioner has also submitted though the court of learned Assistant Sessions Judge, Morigaon had rejected the anticipatory bail application preferred by the present petitioner by its order dated 21.03.2024 passed in bail application No. 109/2024 on the ground of seriousness of the offence involved and the ramification in exercise. However, he submits that as the arrested accused persons are already released on bail as he is ready to co-operative in the investigation, he may be allowed to go anticipatory bail.

5. On the other hand, the learned Additional Public Prosecutor has produced the case diary of Moirabari P.S. Case No. 29/2024 and has submitted that there are sufficient incriminating materials against the present petitioner in the case diary. He has also submitted that otherwise the investigation has fairly progressed however, the statement of the present petitioner is yet to be recorded.

6. I have considered the submissions made by both the sides and have perused

the case diary of Moirabari P.S. Case No. 29/2024.

7. It appears that there are some incriminating materials against the present petitioner. However, considering the fact that the investigation has fairly progressed and all the other co-accused persons who were earlier arrested are already granted bail, if the petitioner co-operates in the investigation, his custodial detention may not be necessary for fair completion of investigation of Moirabari P.S. Case No. 29/2024.

8. Hence, the petitioner, namely, Inamul Hoque is hereby directed to appear before the Investigating Officer of Moirabari police station within a period of 10 days from the date of this order and co-operate with the Investigating Officer in fair completion of investigation. If he does so within the said period, in the event of his arrest in connection with Moirabari P.S. Case No. 29/2024, he shall be allowed to go on interim bail of Rs.50,000/-(Rupees Fifty Thousand only), with one surety of like amount to the satisfaction of the arresting authority subject to the following conditions:

i. That the petitioner shall co-operate in the investigation.

ii. That the petitioner shall not directly or indirectly make any inducement, threat or promise to any person who may be acquainted with the facts of the case, so as to dissuade such person from disclosing such facts of the case before the Investigating Officer.

9. With the above observation, the anticipatory bail application stands disposed of.

10. Send back the case diary.

JUDGE

Comparing Assistant