

GAHC010104042024



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

Case No. : Bail Appln./1496/2024

SAHADEB RABHA AND ANR.
S/O LT. AKHUR RABHA
R/O CHOTODAMAL
P.S. LAKHIPUR
DIST. GOALPARA, ASSAM

2: PRANAB BARUAH
S/O KRISHNA BARUAH
R/O DHULIMULI
P.S. BIHPURIA
DIST. LAKHIMPUR
ASSAM
T/A GARCHUK NEAR RUDRANIDHAR
P.S. GARCHUK
DIST. KAMRUP (M)
ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR D MEDHI

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER**

29.05.2024

Heard Mr. K. Thakur, learned counsel for the accused persons and Mr. B. Sarma, learned Additional Public Prosecutor for the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused persons namely, **Sri Sahadeb Rabha** and **Pranab Baruah**, who has been languishing in jail hazot in connection with the **Azara P.S. Case No. 85/2024**, under Sections 407/379 of the IPC, for granting bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by one Anurag Agarwal, on 13.04.2024. The essence of allegation made in the FIR is that on 12.04.2024, at about 7:30 p.m., 200 packets of moong dal 30 kg in each packet, 100 packets of chana dal 30 kg in each packet, 500 packets of mosur dal 30 kg in each packet, worth of Rs. 19,07,307/- and 100 packets of moong dal 30 kg in each packet worth of Rs. 3,31,821/- were loaded in a Truck, bearing Registration No. NL-01- K-1761, belonging to R.K. Transport, Azara driven by one Umad Ali, and the consignment was supposed to be delivered to Maya Product, Barpetaroad. But, later on, he found the vehicle along with the loaded articles missing and also found the mobile phone of the driver switched off.

4. Mr. Thakur, learned counsel for the accused persons submits that the accused No.1 was arrested on 27.04.2024 and the accused No.2 was arrested on 22.04.2024, and since then they have languishing in jail hazot for last 33 and 38 days, respectively. Mr. Thakur further submits that they were also taken into police custody for two days and that they are ready to cooperate with the investigating agency, and therefore, it is contended to allow this petition.

5. On the other hand Mr. Sarmar, learned Additional Public Prosecutor by producing the case diary before this Court submits that the I.O. has collected sufficient incriminating materials against both the accused persons. Mr. Sarma further submits that the investigating is going on and that some of the co-accused persons are yet to be arrested and some stolen articles are also to be recovered, 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 also perused the case diary with the assistance of learned Additional Public Prosecutor.

7. Perusal of the case diary reveals that the I.O. has collected sufficient incriminating materials in support of the allegation made in the FIR. Further, it appears that the investigation is going on and some of the co-accused persons are yet to be arrested and some stolen articles are also yet to be recovered and enlarging the accused on bail, at this stage, will misdirect the investigation.

8. In view of above, this Court is of the view that this is not a fit case where the privilege of bail can be extended to the accused.

9. Accordingly, the petition stands dismissed.

10. The case diary be returned.

JUDGE

Comparing Assistant