

GAHC010140122024



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

Case No. : AB/1805/2024

ABUL KALAM AZAD
S/O EUSUF ALI, R/O VILL- MORAVAS, BARPETA, ASSAM, P.O. AND P.S.-
BAGHBAR, PIN-781308, DIST- BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. D K DAS, MR G BARGAYARY, MS. M HANDIQUE, MR P P MEDHI

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

03.09.2024

1. Heard learned counsel Dr. P. P. Medhi for the petitioner Abul Kalam Azad.
2. The petitioner has filed this application under Section 482 of the BNSS, 2023 with prayer for pre-arrest bail as he is apprehending arrest in connection with

Baghbar P. S. Case No. 41/2024 under Sections 120(B)/420/406/409 of the IPC read with Section 7(ii) of EC Act.

3. Heard Mr. B. B. Gogoi, learned Additional Public Prosecutor, Assam for the respondent State.
4. The allegation against the petitioner is that he has lifted an entire allotted quota of NFSA rice from FCI, FSD, Sarbhog i. e., 2375.45 quintals of rice for the month of July, 2023, 2373.25 quintals of rice for the month of August, 2023, in respect of M/S Baghmara Char GPSS limited, 1260.70 quintals in respect of M/S Baghbar GPSS Ltd and 1943.05 quintals in respect of M/S Pachim Mandia GPSS Ltd for the month of August 2023 respectively.
5. It is further submitted on behalf of the petitioner that earlier an FIR was lodged relating to the same offence of lifting an entire allotted quantity of 1943.05 quintals of NFSA rice against each month of July and August, 2023 from FCI, FSD, Sarbhog. And this FIR was registered as Baghbar P. S. Case No. 52/2023. It is submitted that the petitioner was already arrested in connection with Baghbar P. S. Case No. 52/2023 and he has already co-operated with the investigation and he was released on bail vide order dated 09.10.2023 in connection with B.A. No. 3494/2023.
6. Learned Additional Public Prosecutor has raised objection stating that there are incriminating materials in the Case Diary against the petitioner. The present

FIR reveals that the total quantity of rice lifted by the petitioner from the month of July 2023 up to the month of August 2023 has been mentioned in the instant case which tantamounts to a total of (2375.45 + 2373.25 + 1260.70 + 1943.05) i.e, 7952.45.

7. It is submitted on behalf of the petitioner that the subsequent FIR was not necessary, if certain materials have been unearthed against the petitioner, Supplementary Charge-sheet could have been laid relating to the same offence arising out of the same cause of action.

I have considered the submission that the petitioner is willing to co-operate with the investigation of this case. I have also considered the submission that the petitioner has pledged to abide by any stringent bail conditions if imposed upon him. The petitioner who was the Secretary of the GPSS has already been removed and there is no scope that investigation may be adversely affected if the petitioner is admitted to bail.

8. In view of my foregoing discussions, petition is allowed. Meanwhile, in the event of his arrest, the petitioner shall be enlarged on bail of Rs.30,000/- (Rupees Thirty Thousand) with a suitable surety of like amount to the satisfaction of the arresting authority, under the conditions that:

- (i) The petitioner shall appear before the Investigating Officer within 1 (One) week and co-operate

with the investigation,

(ii) The petitioner shall appear before the Investigating Officer on every fortnight till the completion of investigation,

(iii) The petitioner shall refrain from such activities with which he is alleged, and

(iv) The petitioner shall not leave the jurisdiction of the Court without prior permission.

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

9. Send back the Case Diary.

JUDGE

Comparing Assistant