

GAHC010140912024



2024:GAU-AS:8037

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

Case No. : AB/1812/2024

NAZMUL HOQUE
S/O- LATE ROSTOM ALI,
VILL- MADHOKONA,
P.O- MEDORTARI,
P.S- FAKIRGANJ, DIST- DHUBRI, ASSAM,

VERSUS

THE STATE OF ASSAM
REP BY THE PP ASSAM

Advocate for the Petitioner : MR. SHAHAJAHAN PRODHANI, MR. A M KHAN

Advocate for the Respondent : PP, ASSAM,

:: BEFORE ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

O R D E R

16.08.2024

Heard Mr. P.J. Saikia, learned Senior Counsel assisted by Mr. A.M. Khan, the learned counsel appearing for the petitioner. Also heard Mr. D. Das, the learned

Addl. Public Prosecutor, Assam.

2. This is an application under Section 482 of the BNSS, 2023 praying for grant of pre-arrest bail in connection with Gauripur P.S. Case No.177/2024, registered under Sections 420/406/409 of the Indian Penal Code.

3. The petitioner is the In-Charge Headmaster of Tumpara L.P. School. The FIR was lodged by Abdul Malek who is a Member of the Managing Committee of the said school. In the said FIR, it is alleged that the petitioner had lifted 7 quintal 77 kilograms of rice from the Co-operative Society for Mid Day Meal Scheme of the school. It is alleged that out of said amount of rice, 4 quintals 27 kilograms of rice were sold away in the open market. It is further alleged that the petitioner had also misappropriated an amount of ₹25,000/- which was given by the Government for repair of the school.

4. In the case diary, some witnesses who are also a Member of the Managing Committee of the school have supported the allegation against the present petitioner.

5. But there are no materials to show that the petitioner had actually sold the rice in the open market.

6. Mr. Das has submitted that investigation is going on now.

7. I have considered the submissions made by the learned counsel of both sides.

8. This Court is of the opinion that the case diary does not have any materials to show that the petitioner had actually sold the rice in the open market nor there is any evidence to show that he had actually misappropriated ₹25,000/-. Therefore, the petitioner does not deserve to be detained in custody. His pre-arrest bail application is allowed.

9. It is hereby directed that in the event of arrest in connection with Gauripur P.S. Case No.177/2024, registered under Sections 420/406/409 of the Indian Penal Code, the petitioner namely- Nazmul Hoque shall be released on bail of ₹25,000/- with a surety of like amount to the satisfaction of the arresting authority. He is directed to appear before the Investigating Police Officer within next 10(ten) days from today.

With the aforesaid direction, the application for bail is disposed of accordingly.

Return the case diary.

JUDGE

Comparing Assistant