

GAHC010141392024



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

Case No. : Bail Appln./2088/2024

MASHUK AHMED BARBHUIYA
S/O SHRI ALA UDDIN BARBHUIYA, R/O VILL- NIZ-FULBARI PART-III, P.S.-
KATIGORAH, DIST- CACHAR, ASSAM, PIN-788802

VERSUS

THE UNION OF INDIA
(REPRESENTED BY C.G.S.C.) (CUSTOM)

Advocate for the Petitioner : MRS. R RONGMEI, MS. J GHOSH, MS. K L R YANTHAN

Advocate for the Respondent : SC, CUSTOMS,

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 13.08.2024

Heard Mr. R.P.Sarmah, learned Senior Counsel assisted by Ms. R.Rongmei, learned counsel for the petitioner and Mr. M.K Boro, learned Standing Counsel, DRI. Also heard Ms. N. Kakati, learned Counsel for the respondent Customs.

By filing this application under section 483 of the Bharatiya Nagarik Suraskha

Sanhita, 2023, the accused petitioner namely, **Mashuk Ahmed Barbhuiya**, has prayed for bail in connection with **DRI Case No.10/CL/IMP/CIG/DRI/GU/2024** under Section 135 of the Customs Act.

The allegation in the instant case relates to seizure of 10,00,000/- sticks of foreign origin brand King Size Gold Flake cigarettes from a truck bearing Registration No. UP-78CT-9580, weighing 7857 Kgs by the DRI which was coming from Silchar and was going toward Muzaffarnagar, Uttar Pradesh.

Learned Senior Counsel for the petitioner submits that petitioner is a daily labourer and he has no criminal activities at any point of time. The petitioner is not named in the FIR and he was arrested only on suspicion. The seized articles were recovered from the possession of one Nasim and Ahmed Ali. Nothing was recovered from the possession of the present accused petitioner. However, the petitioner is in judicial custody for last 41 days and as such, considering the period of detention, bail may be granted to the petitioner.

Learned Standing Counsel, DRI has opposed in granting bail to the petitioner. According to him, as per case diary the petitioner and co-accused Mohit Kumar Singh were supposed to receive the seized items in Delhi.

Having heard the learned counsel for the parties and on perusal of case diary, it appears that the seized cigarettes were not recovered from the possession of the petitioner. The allegation in the case diary reveals that he would be receiving the seized contraband in Delhi.

In view of the above and considering the length of detention, this Court is of the considered opinion that further custodial interrogation of the petitioner in the interest of investigation is not warranted.

Accordingly, it is provided that the petitioner named above shall be released on

furnishing bail bond of **Rs. 50,000/-** with two sureties of like amount, out of which one of the sureties would be a Govt. Employee in the State of Assam to the satisfaction of the learned **CJM, Kamrup (M) , Guwahati**, subject to the following conditions;-

- (i) The petitioner shall not leave the territorial jurisdiction of learned **CJM, Kamrup (M) , Guwahati** without prior written permission from him/her;
- (ii) That the petitioner shall cooperate with the Investigating Officer as and when required;
- (iii) That the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Police Officer or the Court.

Violation of any condition shall tantamount to cancellation of bail.

This disposes of the bail application.

JUDGE

Comparing Assistant