

GAHC010150272024



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

Case No. : Bail Appln./2224/2024

DIGANTA NEOG
S/O BHADRESHWAR NEOG, R/O HOUSE NO. 6, 12TH MILE, P.S.-SONAPUR,
DIST- KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE STANDING COUNSEL, EXCISE DEPARTMENT,
ASSAM

Advocate for the Petitioner : MS. P BORAH,

Advocate for the Respondent : SC, EXCISE DEPTT.,

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 12.08.2024

Heard Mr. S. Borthakur, learned counsel for the petitioner. Also heard Mr. R. R. Gogoi, learned Standing counsel representing the Excise Department.

This is an application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023,

praying for grant of bail to the accused/petitioner, who has been languishing in jail since 24.06.2024 in connection with Noonmati Excise Case No.NM/Ex.06/2024 registered under Section 53(1) (a) and (d) of Assam Excise Act, 2018.

Mr. Borthakur, learned counsel for the petitioner, submits that the accused/petitioner is innocent and not involved in the alleged offence. However, he was arrested in connection with this case on 24.06.2024 and has been in custody since then, including 5 days of police remand. He further submitted that the petitioner's earlier bail application was rejected by order dated 15.07.2024, based on the preliminary report submitted by the IO and with the consideration that further custodial interrogation might be necessary for a proper investigation. However, after 5 days of police remand, the petitioner was never interrogated by the investigating agency, although he co-operated with the IO and disclosed all relevant information, including details about the illegal liquor manufacturing unit, fake labels, caps, ENA, Caramel, and empty plastic and glass bottles in Kokrajhar. The petitioner has been in custody for 50 days and further custodial interrogation may not be necessary for the investigation. He is a permanent resident of the locality, is ready to produce a bailor, and is willing to comply with any conditions imposed. Hence, considering his length of detention, he may be enlarged on bail. He is still ready and willing to co-operate with the I. O. in further investigating of the case, if the same is granted.

In this context, Mr. R. R. Gogoi, learned Standing Counsel, submitted that, according to the IO's note and the materials available in the case diary, other culprits are yet to be booked in connection with this case. He further submitted that the earlier bail prayer has already been rejected by the Court, considering the fact that the, custodial interrogation may be necessary for the investigation.

Mr. R. R. Gogoi, learned Standing Counsel, further submitted that the anticipatory bail prayer of the co-accused was also rejected by the learned Trial Court. He also mentioned that the exhibited materials have been sent for FSL examination, but the report has not yet been collected by the IO. Therefore, he objected and requested that the bail application be rejected at this stage.

Considering the submissions of learned counsels for both sides, it is noted that the earlier bail application was rejected vide order dated 15.07.2024 based on the enquiry report and submissions from both sides, as well as the fact that custodial interrogation might be required for the investigation. However, the investigation is still ongoing, and the IO has not yet collected the FSL report. Considering the length of detention already undergone by the accused/petitioner, i.e. 50 days, I am of the view that the IO has had ample opportunity to interrogate the accused/petitioner while in custody.

Therefore, further custodial interrogation of the accused/petitioner seems not to be necessary here in this case.

Accordingly, it is provided that on furnishing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup (M), the accused/petitioner, namely Diganta Neog, be enlarged on bail, subject to the following conditions:

- (i) that the petitioner shall make himself available for interrogation by the Investigating Officer as and when required;
- (ii) 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 Court or to any police officer; and
- (iii) that the petitioner shall not leave the jurisdiction of the learned Chief Judicial Magistrate, Kamrup (M), without prior permission.

In terms of above, this bail application stands disposed of.

JUDGE

Comparing Assistant