

GAHC010156862023



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

Case No. : AB/2490/2023

SULEMAN ALI
S/O- LATE KALU AHMED,
R/O- NORTH BARPETA ROAD,
WARD NO. 9,
P.S.- BARPETA ROAD,
DISTRICT- BARPETA, ASSAM.

VERSUS

THE STATE OF ASSAM
REPRESENTED BY P.P., ASSAM.

Advocate for the Petitioner : MR S M ABDULLAH P

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 24-01-2024

Heard Mr. S. M. Abdulla P, learned counsel for the applicant and also heard Mr. R. J. Barua, learned Addl. P.P. for the State respondent.

Apprehending arrest in connection with Jagirod P.S. Case No. 26/2023, under

Sections 420/403 IPC, this application u/s 438 Cr.P.C. is preferred by the applicant, namely, Suleman Ali, for grant of pre-arrest bail.

The above noted case has been registered on the basis of one FIR, lodged by one P. R. Dey, Managing Director Progressive Fertichem.

The essence of allegation made in the FIR, dtd. 31.1.2023, is that M/s Matrix Fertilizers & Chemicals Ltd. has placed an order for supply of 25 MT of Single Super Phosphate on 20.9.2022 and the company of the informant has dispatched the aforesaid consignment to M/s Matrix Fertilizers & Chemicals Ltd. But, instead of delivering the consignment to M/s Matrix Fertilizers & Chemicals, the same was delivered to M/s Amar Beej Bhandar, Majgaon, Barpeta and said Amar Beej Bhandar, Majgaon has received the same despite knowing the fact that the consignment was not meant for them.

The learned counsel for the applicant submits that the applicant was granted privilege of interim pre-arrest bail vide order dated 21.7.2023, and the same was extended from time to time. But, the applicant did not appear before the I.O., even then he prays for granting him another opportunity to appear before the I.O.

On the other hand, Mr. Barua, learned Addl. P.P. has vehemently opposed the petition and producing the case diary before this Court, Mr. Borua submits that the I.O. has collected sufficient incriminating materials against the accused, and that he has never appeared before the I.O. and never co-operating with the investigation, and therefore, it is contended to dismiss the petition.

Having heard the submission of learned Advocates of both sides, I have gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Sarma, learned Addl. P.P.

It appears that vide order dated 21.7.2023 the privilege of interim pre arrest bail was granted to the applicant on the condition that he will cooperate with the investigating agency but, admittedly, he has not appeared before the I.O, since then. Though, the interim protection granted to him was extended from time to time, the I.O. of the case could not achieve much headway in the investigation of the case, as the applicant has not cooperating with the investigating agency and the consignment of fertilizers are yet to be recovered.

That the condition for granting the privilege of pre-arrest bail and also interim pre-arrest bail is that the applicant has to cooperate with the investigating agency. But, here in this case, the applicant has not been cooperating with the investigating agency, though the privilege of interim pre-arrest bail is granted to the applicant, vide order dated 21.7.2023

In view of above, this Court is of the view that this is not a fit case where the privilege of pre-arrest bail can be granted to the applicant.

Accordingly, the petition stands dismissed. Interim order passed on 21.7.2023 is hereby stands vacated.

Case diary be returned.

JUDGE

Comparing Assistant