

GAHC010162632023



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

Case No. : Crl.Pet./752/2023

NURUL ISLAM
S/O- LATE AZIZUL HOQUE, VILL. NO. 3 TUPAMARI, P.S. NAGARBERA,
DIST. KAMRUP, ASSAM

VERSUS

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

2:SISIR KUMAR BASUMATARY
S/O- LATE MANOJ KUMAR BASUMATARY
VILL.- PUB UDHIAGURI
P.S. SALBARI
DIST. BAKSA
ASSA

Advocate for the Petitioner : MR. A PARAMANIK

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 05.01.2024

Heard Mr. A. Pramanik, learned counsel for the petitioner and Mr. A. Baishya,
learned Addl. Public Prosecutor for the State respondent.

2. Mr. A. Baishya, learned Addl. Public Prosecutor has produced one report from the I.O. concerned in respect of the seized rice. Perusal of the said report indicates that the petitioner has produced some documents such as tax invoice before him in respect of purchasing the seized rice from M/s Nazma Rice Mill and accordingly, the I.O. has verified the same from the M/s Nazma Rice Mill and M/s Nazma Rice Mill confirmed that they have issued the tax invoice, and also sold the rice mentioned in the aforesaid tax invoice, but, the brand of rice so purchased by the petitioner from M/s Nazma Rice Mill is "Red Rose Common Rice" of 50 kg, of total quantity 26,150 kg in 523 packets. However, the FCI test check report collected by him reveals that the same is "Grade-A commodity" and as such, it is not possible to ascertain the ownership of the seized rice "Grade-A commodity" presently, and the claimant has failed to furnish any document of the seized rice i.e. "Grade-A commodity rice" and therefore, a prayer has been made before the Deputy Commissioner, Kamrup, Amingaon under Section 6A of the Essential Commodities Act for disposal of the rice through auction sell and deposit the auction money in the treasury, till production of the authenticated document in respect of the claim of ownership of the "Grade-A commodity rice" seized in this case.

3. It is to be mentioned here that acting on a tip off 06.04.2023, at about 7 p.m., a raid was conducted in the godowns of one Nurul Islam (the present petitioner) and Saidur Rahman and during search, 523 bags of rice, containing 50 kg each, total 26,150 kg, out of which 5 bags of rice containing the seal of FCI bags and the rest in unmarked bags, were seized along with one weighing apparatus, two numbers of sewing machines, fourteen numbers of FCI marked bags and six hundred numbers of empty plastic bags, vide MR No. 35/23, and the both the owners of the godown were found absconding during the seizure.

4. Since the petitioner has failed to produce any relevant documents in connection with the seizure of the "Grade-A commodity rice" as reported by the FCI test check report, this Court is of the view that this is not a fit case where the seized rice bags can be released in the custody of the petitioner.
5. Since the matter has already been referred to the Deputy Commissioner, Kamrup, Amingaon under Section 6A of the Essential Commodities Act, this Court is inclined to dispose of this petition by directing the petitioner to approach the Deputy Commissioner, by filing appropriate application and by producing relevant documents in support of his case. In the event of filing such an application, the Deputy Commissioner shall consider the same in accordance with law.
6. The report submitted by the I.O. shall be made part of the record.

JUDGE

Comparing Assistant