

GAHC010199262024



2024:GAU-AS:13086

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

Linked Case : AB/2147/2024

JABBAR ALI AND ANR
S/O LATE BAJAR ALI
R/O VILL- KHERBARI PART-IV

P.S. AGOMANI
DIST. DHUBRI
ASSAM

2: MINAJUL HOQUE
S/O JABBAR ALI
R/O VILL- KHERBARI PART-IV

P.S. AGOMANI
DIST. DHUBRI
ASSAM
VERSUS

THE STATE OF ASSAM
REP BY THE PP
ASSAM

Advocate for : MR F HAQUE
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

20.12.2024

1. Ms. S. Roy, learned counsel has submitted that there has been an inadvertent error in mentioning her name as counsel for the petitioner on successive dates i.e on 12.12.2024 and 10.12.2024.
2. It is submitted that she is not the learned counsel representing the petitioner, Jabbar Ali in connection with this case.
3. Mr. F. Haque, the learned counsel is present for the petitioner, Jabbar Ali today.
4. The petitioners Jabbar Ali and Minajul Hoque have filed this application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 with prayer for pre-arrest bail as they are apprehending arrest in connection with Agomani P.S. Case No. 59/2024 under Sections 303(2)/317(2)/3(5) of the BNS.
5. Heard Mr. K. K. Das, learned Additional Public Prosecutor, Assam for the respondent State.
6. The allegation against the petitioners is that the driver of the vehicle bearing registration no. WB-69-7610, Mr. Bilash Toppo has informed the investigating team that 44 bags of rice was loaded from Jabbar Ali's house and was supposed to transported to Borbiya, West Bengal, but the vehicle got stuck in the mud. Jabbar Ali along with the help of others hurriedly unloaded the rice bags from the vehicle and transported the same to Mojmul Hoque's house. When the driver was asked to produce the documents with respect to the transportation of rice, the driver failed to produce the same. The driver, however, led the investigating team to the house where the rice bags were kept. When the investigating team along with the witnesses reached the house, Mojmul Hoque and his wife were not found inside the house but they found the

rice bags. After sometime, Mojmul Hoque and his wife appeared. When confronted, Mojmul Hoque and his wife denied any knowledge about the rice bags being placed in their house and they could not produce any documents relating to 44 bags of rice being kept in their house which weighed around 1100 kgs. The rice was seized.

7. It is submitted on behalf of the petitioners that the truck got stuck in the mud due to rain. The rice bags were shifted to Mojmul Hoque's house. These bags were seized and taken away. The petitioners are not in custody of the bags.

8. The petitioners are willing to cooperate with the remaining part of investigation. The petitioners have admitted that they are not the owners of the rice nor they were in possession of the same.

9. Learned Additional Public Prosecutor has raised serious objection stating that the rice was deliberately removed by Jabbar Ali and kept Mojmul Hoque's house for wrongful gain. Both the petitioners in connivance have stolen the rice bags and the petitioners are complicit.

10. I have considered the submissions at the Bar with circumspection. Investigation has progressed substantially. I have scrutinized the Case Diary. It appears that custodial interrogation may not be required.

11. I deem it a fit case to grant interim bail to the petitioners as the petitioners are willing to abide by any stringent bail conditions if imposed upon them. The petitioners are local residents and they are not flight risks.

12. In view of my foregoing discussions, petition is allowed. The petitioners are enlarged on bail of Rs. 50,000/- each with a suitable surety of like amount to the satisfaction of the arresting authority under the conditions that:

- (i) The petitioners shall refrain from such activities with which they are alleged,
- (ii) The petitioners shall appear before the Investigating Officer within 1 week and cooperate with the investigation,
- (iii) The petitioners shall not leave the jurisdiction of the Court without permission, and
- (iv) The petitioners shall appear before the Investigating Officer on every fortnight till completion of investigation.

13. On breach of any of the bail conditions, bail order shall stand automatically cancelled.

14. In terms of the above observation, this anticipatory bail application stands disposed of.

15. Send back the Case Diary.

JUDGE

Comparing Assistant