

GAHC010175642024



2024:GAU-AS:11620

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

Case No. : AB/2296/2024

MD RUBUL ALI
S/O LATE DANESH ALI
R/O MUKALMUA
P.S. MUKALMUA
DIST. NALBARI, ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR S M ABDULLAH P, MD IMRAN, MD R ISLAM, MR. S
RAHMAN, MS F HUSSAIN

Advocate for the Respondent : PP, ASSAM,

**BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI**

ORDER

Date : 25.11.2024

Heard Mr. S. M. Abdullah. P, learned counsel for the applicant. Also heard Mr. R. J. Barua, learned Additional Public Prosecutor for the State of Assam.

This is an application under Section 482 of the BNSS Act, 2023, seeking for grant of pre-arrest bail to the accused/petitioner, i.e. Md. Rubul Ali, who is apprehending arrest in connection with Mukalmua P.S. Case No.236/2024 registered under Section 318(4) of the BNSS, 2023 read with Section 7 of Essential Commodities Act.

The case of the prosecution is that on 30.07.2024, the informant, i.e. Inspector of food, Public Distribution and Consumer Affairs, Nalbari received information to conduct a search operation at R. J. Enterprise, a godown establishment located at Mukalmua and accordingly as per the aforesaid instruction he along with his colleagues went to Mukalmua and met the Circle Officer and Executive Magistrate, Revenue Circle and other police personnels and thereafter proceeded to the location where after search operation, 13 nos. of jute gunny bags containing Rice with machine stitching leveled as 'Fortified Rice' very much similar to the rice supplied by Food Corporation of India under PDS was recovered and accordingly seized the same.

It is the further allegation that alongside the gunny bags rice, there was 213 nos. of plastic bags rice, which seemed to be refilled

from the gunny bags and accordingly the same was also seized. Thereafter, a case was registered.

Mr. S. M. Abdullah. P, learned counsel for the applicant submits that the petitioner is totally innocent and is going to co-operate with the investigation. He further submits that the rice seized from the godown of the petitioner is not PDS rice.

Per contra Mr. R. J. Barua, learned Additional Public Prosecutor for the State of Assam vehemently opposes the bail and submits that the materials in the case diary implicates the petitioner and the investigation is at a crucial stage and hence the prayer for Anticipatory Bail ought not be granted by this Court.

Heard the learned counsel for both the parties and have perused the materials available on record including the case diary and FSL report.

Perusal of the case diary indicates that the FSL report as called earlier by this Court has not been placed before this Court.

However, it appears that there is a report of the FCI dated 04.09.2024 in the case diary which indicates that it is not possible to determine whether the seized rice is pertaining to FCI or not. It further appears from the said report, that as per records of FCI, there is no any incident of pilferage, theft or missing office stock reported in the Department under FCI, DO, Guwahati during the questionable period.

It further appears that the petitioner is ready and willing to co-operate with the investigation. It further appears that statements of

the witnesses have also been recorded by the Investigating Officer and seizure has also been made. It further appears that there are no adverse antecedence collected against the petitioner.

In view of the above, it appears that custodial interrogation of the petitioner may not be justified for the ongoing investigation and accordingly the prayer for Anticipatory Bail is allowed.

Hence, it is provided that in the event of arrest, the petitioner named above, shall be released on pre-arrest bail in connection with the above noted case, on furnishing bail bond of Rs. 50,000/- with one surety of like amount to the satisfaction of the arresting authority, subject, of course, to the following conditions:-

- i) That the petitioners shall appear before the Investigating Officer within 7 days, failing which on and from the 8th day, the pre arrest bail order shall have no force;
- ii) That the petitioners shall not directly or indirectly make any inducement, threat or promise to any persons acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any Police Officer.
- iii) That the petitioners shall refrain from committing any similar offences in future of which he is accused or suspected of commission.
- iv) That the petitioner and his bailer shall produce their voter ID/Passport/PRC, which ever is available at the time of

submission of the bail bond for satisfaction of the arresting authority regarding their identity and address and return the same retaining the photocopy thereof.

With the above observations and directions, the Anticipatory Bail Application stands disposed of.

JUDGE

Comparing Assistant