

GAHC010195472023



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

Case No. : AB/3074/2023

SOMEDA BEGUM AND ANR.
W/O SARBAT ALI,
D/O ACHAN UDDIN,
VILL.- GOPALPUR, P.O.- PAHUMARA, P.S.- BAGHBAR, IN THE DISTRICT OF
BARPETA, ASSAM, PIN- 781308.

2: HAKIMUL AHMED
S/O JAYNAL UDDIN AHMED
VILL.- TULSIBARI
P.O.- TULSIBARI
PIN- 781376 IN THE DISTRICT OF KAMRUP
ASSAM

VERSUS

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

Advocate for the Petitioner : MR. S S S RAHMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

22.01.2024

Mr. R.J. Baruah, learned Additional Public Prosecutor, Assam, submits that he has

not received the case diary. Whereas, Mr. S.S.S. Rahman, learned counsel for the applicants submits that the applicants were granted the privilege of interim pre-arrest bail vide order dated 11.09.2023, and pursuant to the said order, they have appeared before the I.O. and their statements have been recorded and they have been cooperating with the investigating agency and that 5 opportunities were afforded to the prosecution side to produce the case diary before this Court, but the prosecution side has failed to produce the case diary before this Court and therefore, a contention is being made to make the interim order dated 11.09.2023, absolute, in the same terms and conditions.

2. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and it appears that the case diary was called for vide order dated 11.09.2023, extending the privilege of interim pre-arrest bail to the applicants and thereafter, 4 opportunities were afforded to the prosecution side to produce the case diary before this Court. But, the prosecution side has failed to produce the same. Therefore, it is decided to dispose of this petition on the basis of the materials available on the record.

3. It is to be noted here that apprehending arrest in connection with STF P.S. Case No.11/2023 under Section 379/411 IPC, read with Section 7 of the Essential Commodities Act, this application under Section 438 Cr.P.C. is preferred by two applicants, namely, Someda Begum and Hakimul Ahmed, for grant of pre-arrest bail.

4. It is to be noted here that the aforementioned report has been registered on the basis of an FIR lodged by S.I. Rohit Das on 10.08.2023. The essence of allegation made in the aforesaid FIR is that acting on a tip off the informant had intercepted one Truck, bearing Registration No.AS-15AC-6752 on 09.08.2023, while the same was carrying Urea (Fertilizer) without valid/legal papers, which is a subsidized item, with a view to sold the same in the black market at a high rate and thereby depriving the beneficiaries.

5. Mr. Rahman, learned counsel for the applicants has reiterated the submission made herein above.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record.

7. Though the prosecution side has been granted full opportunity to produce the case diary before this Court, the prosecution side has failed to produce the same. Therefore, having regards to the submission of learned Advocates of both sides and also considering the materials placed on record, this Court is inclined to make the interim order dated 11.09.2023, absolute, in the same terms and conditions.

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

Sd/- Robin Phukan
JUDGE

Comparing Assistant