

GAHC010199262024



2024:GAU-AS:13086

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

Case No. : AB/2573/2024

MAJLUM HOQUE
S/O- JAMAL UDDIN SHEIKH,
R/O- KHERABARI, PART IV,
AGOMONI, DIST-DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : ANGSHUMAN GAYAN, MS F N ZAMAN, MRS. S ROY

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

20.12.2024

1. Heard learned Senior Counsel Mr. H. R. A. Choudhury assisted by Mr. F. Hoque, learned counsel for the petitioner Mr. Majlum Hoque.
2. This application has been filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 with prayer for pre-arrest bail as the petitioner is

apprehending arrest in connection with Agomani P.S. Case No. 59/2024 under Sections 303(2)/317(2)/3(5) of the BNS.

3. Heard Mr. K. K. Das, learned Additional Public Prosecutor, Assam for the respondent State.

4. The allegation against the petitioner 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, the petitioner and his wife was not found inside the house but they found the rice bags. After sometime, the petitioner appeared. When confronted, the petitioner 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.

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

6. The petitioner is willing to cooperate with the remaining part of investigation. The petitioner has admitted that he is not the owner of the rice nor he was in possession of the same but the rice was placed in their house

without his knowledge.

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

8. 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.

9. I deem it a fit case to grant interim bail to the petitioner as the petitioner is willing to abide by any stringent bail conditions if imposed upon him. The petitioner is a local resident and he is not a flight risk.

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

(i) The petitioner shall refrain from such activities with which he is alleged,

(ii) The petitioner shall appear before the Investigating Officer within 1 week and cooperate with the investigation,

(iii) The petitioner shall not leave the jurisdiction of the Court without permission, and

(iv) The petitioner shall appear before the Investigating Officer on every fortnight till completion of investigation.

11. On breach of any of the bail conditions, bail order shall stand automatically cancelled.
12. In terms of the above observation, this anticipatory bail application stands disposed of.
13. Send back the Case Diary.

JUDGE

Comparing Assistant