

GAHC010217412024



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

Case No. : Bail Appln./3168/2024

SAMIR GHOSH AND ANR
S/O LATE SUNIL GHOSH, VILL- TANGLA, P.S.-TANGLA, P.O.-TANGLA, PIN-
784521, DIST- UDALGURI ASSAM

2: RUPEN BORO
S/O LATE DIPEN BORO
VILL- JALUKBARI (TANGLA)
P.S.-TANGLA
P.O.-TANGLA
PIN-784521
DIST- UDALGURI ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE DEPARTMENT OF EXCISE, GOVERNMENT OF
ASSAM

Advocate for the Petitioner : MR. A K ROY,

Advocate for the Respondent : SC, EXCISE DEPTT.,

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 08.10.2024

Heard Mr. T. R. Sarma, learned counsel for the petitioner. Also heard Mr. R.

R. Gogoi, learned Standing Counsel, Excise Department, representing the respondents.

By filing this application under Section 483 of BNSS, 2023, the petitioners, namely, 1. Sri Samir Ghosh and 2. Sri Rupen Boro, are seeking bail in connection with Tangla Excise Case No. 08/2024 under Section 53(1)(a) of the Assam Excise (Amendment) Act, 2018.

As per the seizure list (Annexure-1) with reference to Dimakuchi PS GDE No. 10 dated 19.09.2024, the vehicle, belonging to the petitioner No. 2 in which both the petitioners were travelling, was searched and large consignment of excise items like, beer and liquor were seized, pursuant to which a prayer was made by the Assistant Inspector of Excise, Tangla Excise Circle before the learned Chief Judicial Magistrate, Udalguri on 20.09.2024 for issuance of a warrant to take the petitioners into custody, to grant permission to take samples for chemical analysis and to grant permission to keep the seized articles in the Sub-Divisional Malkhana, permission to keep the vehicles in the safe custody and to keep the currency seized in safe custody in the Sub-Treasury.

Learned counsel for the petitioners has submitted that the petitioners were arrested on 19.09.2024 and forwarded on 20.09.2024 and since then they are in custody.

Learned Standing Counsel for the respondent has opposed the prayer for bail on the ground that the punishment would extend to maximum period of 3 years with fine of Rs. 1 Lakh.

Be that as it may, as the contraband liquor has already been seized, the Court is of the considered view that considering the length of detention, further custodial interrogation of the petitioners may not be required. Hence, the Court

is inclined to grant bail to the petitioners, namely, 1. Sri Samir Ghosh and 2. Sri Rupen Boro in connection with Tangla Excise Case No. 08/2024 on furnishing bail bond of Rs.50,000/- each with two sureties of like amount to the satisfaction of the learned Chief Judicial Magistrate, Udalguri.

Out of the two bailors, one bailor should offer his/her immovable property as surety for grant of bail.

The bail is granted on the following conditions:

1. That the petitioners shall make themselves available to the police or any other investigating agency or Court in the present case as and when required.
2. That the petitioners shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to Court or to any police officer or tamper with the evidence. They shall not, in any manner, try to overawe or influence or intimidate the prosecution witness.
3. That the petitioners shall not obstruct the smooth progress of the investigation/trial.
4. That the petitioners shall not misuse their liberty in any manner.
5. That the petitioners shall not jump over the bail.
6. That the petitioners shall appear before the I/O of the case once in every month or till their personal appearance is dispensed with or charge sheet is submitted, whichever is earlier.
7. It is also provided that in the event the petitioners are found to be

involved in any similar offences, it would be open to the Excise Authorities to move the Jurisdictional Court for cancellation of bail.

This bail application stands disposed of.

JUDGE

Comparing Assistant