

GAHC010218442023



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

Case No. : AB/3322/2023

HABIBUR RAHMAN AND ANR.
S/O JAIDUR RAHMAN R/O VILL. KHAIRMARI P.O. KANDHULIMARI P.S.
DHING DIST. NAGAON ASSAM PIN 782123

2: AINUL HOQUE CHOUDHURY
S/O ISA HOQUE ALI R/O VILL. KHAIRMARI P.O. KANDHULIMARI P.S.
DHING DIST. NAGAON ASSAM PIN 78212

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : ALHAJJ I UDDIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

05.02.2024

Heard Mr. A.I. Uddin, learned counsel for the applicants and Mr. P.S. Lahkar, learned Additional Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with **BI[EO] P.S. Case No. 23/2023**, under Sections 120[B]/406/420 of the IPC read with Section 7 of the E.C. Act, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicants namely, **Habibur Rahman and Ainul Hoque Choudhury**

for grant of pre-arrest bail.

3. The said case was registered on the basis of an FIR lodged by one Dilip Kumar Deka, Superintendent of FCS & CA, BI[EO], on 01.09.2023. The essence of allegations made in the FIR relates to misappropriation of 6099.83 quintals of rice and 675.48 quintals of W/Atta by siphoning of the same to the black market for their personal gain, by violating the provision of 18/21/22/25 and license terms and conditions under Assam Public Distribution Articles order 1982 and the provision of 11[3][i][ii] of the Targeted Public Distribution System [Control] Order 2015 read with the provisions of the National Food Security Act, 2013.

4. Mr. Uddin, learned counsel for the applicants submits that the applicants are the President and Secretary of M/S Niz Dhing SS Limited, Bilotia and that this Court was pleased to grant interim protection to the applicant, vide order dated 23.11.2023, and pursuant to the said order, the applicants had appeared before the IO and have been cooperating with the investigating agency and therefore, it is contended to make the interim order dated 23.11.2023, absolute in the same terms and conditions.

5. On the other Mr. Lahkar, learned Additional Public Prosecutor by producing the case diary before this court, submits that the applicant had appeared before the IO and have been cooperating with the investigating agency. However, Mr. Lahkar submits that the IO has collected some incriminating materials against the applicants, especially against the Secretary namely, Ainul Hoque Choudhury. Mr. Lahkar further submits that there is an indication in the case diary that the Secretary of the M/S Niz Dhing SS Limited, Bilotia, the applicant No. 2 has not furnished some relevant documents to the IO concerned.

6. Accordingly, Mr. Uddin, learned counsel for the applicants submits that the applicant will place all the relevant documents before the IO, as asked for.

7. Having heard the submissions of learned Advocates of both sides, I have

carefully gone through the petition as well as the documents placed on record and also perused the Case Diary with the assistance of learned Additional Public Prosecutor.

8. Considering the materials collected so far in the case diary and also considering the fact that the applicants have been cooperating with the investigating agency and further considering the submissions of learned counsel for both the parties, this Court is of the view that their custodial interrogation seems to be unwarranted here in this case. And therefore, this Court is inclined to make the interim order dated **23.11.2023, absolute** in the same terms and condition and the applicant No. 2 namely, Ainul Hoque Choudhury, the Secretary of the M/S Niz Dhing SS Limited, Bilotia shall produce all the relevant documents to the IO, within a period of one week from today.

9. In terms of above this AB stands disposed of.

10. The case diary be returned.

JUDGE

Comparing Assistant