

GAHC010230052024



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

Case No. : Bail Appln./3265/2024

MD HAFIJUR RAHMAN AND 2 ORS
S/O ABED ALI
R/O VILL- PACHANIA PAHAR
P.S. JOGIGHOPA
DIST. BONGAIGAON
ASSAM
PIN-783382

2: MD AMINUL ISLAM
S/O HARMUSH ALI
R/O VILL- LATIBARI PART-II

P.S. ABHAYAPURI
DIST. BONGAIGAON
ASSAM
PIN- 783384

3: SULTAN ALI
S/O LT. KASEM ALI
R/O VILL- KATABARI
ISBT
P.S. GARCHUK
DIST. KAMRUP (M)
ASSAM
PIN- 781035
VERSUS

THE STATE OF ASSAM
REP BY THE PP
ASSAM

Advocate for : MR G CHAMUAH
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

08-11-2024

Heard Mr. G Chamuah, learned counsel for the petitioners and Mr. K K Parashar, learned Additional Public Prosecutor, Assam for the State.

2. Petitioners, namely, (i) **Md. Hafijur Rahman**, son of Abed Ali, resident of village-Pachania Pahar, Police Station-Jogighopa, District-Bongaigaon; (ii) **Md. Aminul Islam**, son of Harmush Ali, resident of village-Latibari Pt-II, Police Station-Abhayapuri, District-Bongaigaon and (iii) **Sultan Ali**, son of late Kasem Ali, resident of Katabari, ISBT, Guwahati, Police Station-Garchuk, District-Kamrup (Metro) have filed this application under Section 483 of the BNSS, 2023, praying for their bail in Changsari Police Station Case No. 274/2024 under Sections 61(2)/303(2)/317(2)/ 336(3)/340(2)/318(4) of the BNS, 2023 read with Section 7 of the Essential Commodities Act, corresponding to G.R. No. 1232 (K) of 2024, wherein they were arrested on 09.10.2024 and are in custody since then.

3. As per the FIR dated 09.10.2024, lodged by Sub-Inspector of Special Task Force, Assam that it around 12.10 AM of 09.10.2024 received a specific information that a group was attempting to smuggle FRK(Fortified Rice Kernels) blended rice intended for PDS (Public Distribution System) distribution from Barpeta to Meghalaya and thereafter to other states like Mizoram and Tripura. On reaching Madanpur Toll Plaza around 02.05 AM it intercepted a suspected vehicle bearing Registration No. AS-19-AC-5078 that was suspected of carrying the FRK blended rice. During search, 600 bags of rice suspected to be FRK blended and intended for PDS distribution were recovered from the said truck. PDS rice is an essential commodity and the driver and helper of the truck could not produce valid documents for the consignment leading to the suspicion that the goods recovered were stolen property and it was suspected that a group of individuals including Anowar Hussain, owner of Hussain Trading Company, Kapla Chowk, Barpally, Barpeta; owner of Subhash Industries, Jagiroad; Abdul Rashid Ali,

owner of vehicle No. AS-19-AC-5078 all are habitually involved in dealing with stolen goods and aiding in their consignment engaging in such activities in an organized manner. By the said FIR dated 09.10.2024, the complainant requested the Officer-in-Charge of Changsari Police Station to register a case and to unearth the whole nexus, handing over the driver of the vehicle No. AS-19-AC-5078, namely, Hafijur Rahman, son of Ebad Ali and the helper of the said vehicle, namely, Aminul Islam, son of Harmuj Ali to the authority of Changsari Police Station. Accordingly, said Changsari Police Station Case No. 274/2024 was registered under Section 61(2)/ 303(2)/317(2)/336(3)/340(2)/ 318(4) of the BNS, 2023 r/w Section 7 of the E C Act.

4. Petitioner No. 1 Md. Hafijur Rahman is the driver of the vehicle No. AS-19-AC-5078 seized in the said Changsari P.S. Case, whereas petitioner No. 2 Md. Aminul Islam is the helper of the said seized vehicle. Petitioner No. 3 Sultan Ali is a businessman of paddy and rice. Petitioner Nos. 1 & 2 works under the owner of the said vehicle Abdul Rashid Ali @ Abdul Roshid.

5. Petitioners stated that they shall abide by any terms and conditions that may be imposed upon them for their release on bail in said Changsari Police Station Case No. 274/2024.

6. Perused the case diary placed before the Court today by Mr. K K Parashar, learned APP, Assam.

7. Case diary indicates that the driver and his associate relating to the vehicle No. AS-19-AC-5078 failed to place any valid document of carrying the rice with its brand, weight, place from where it was taken and the place in which the same was to be delivered along with the invoices, chalans etc.

8. Case diary also indicates the petitioner No. 1 and 2 as the driver of the vehicle and its assistant involved in the case, who render their service as per the instruction of the owner of the said vehicle and transports paddy and rice by the said vehicle from Godown and other places of Anowar Hussain who is in the business of rice and paddy and hand over such paddy and rice to the petitioner No. 3, Sultan Ali who happens to be the brother-in-law of said Anowar Hussain.

9. Case diary contains sufficient incriminating materials against the petitioner No. 3, Sultan Ali with regard to his involvement in the alleged crime of illegal transportation of paddy and rice including suspected FRK blended rice intended for PDS distribution for its sale to different places of the States of Meghalaya, Mizoram, Tripura etc. in an organized manner.

10. As such, the Court is of the view that the detention of petitioner No. 3 in custody since 09.10.2024 cannot be considered for his bail in said Changsari Police Station Case No. 274/2024 as it is seen from the case diary that one of the prime accused of the case, who is evading police, is yet to be taken into custody.

11. Accordingly, this application of the petitioner No. 3, **Sultan Ali** for his bail in said Changsari Police Station Case No. 274/2024, stands rejected.

12. However, considering the materials in the case diary and the period of detention of the petitioner Nos. 1 & 2 since 09.10.2024, the Court is of the view that their further custodial detention for investigation of said Changsari Police Station Case No. 274/2024 is not warranted. As such, their prayer for bail in said Changsari P.S. Case is accepted.

13. Accordingly, the petitioners namely, (i) **Md. Hafijur Rahman**, son of Abed Ali and (ii) **Md. Aminul Islam**, son of Harmush Ali be released on bail in said Changsari P.S. Case No. 274/2024 on furnishing bail bond of Rs. 40,000/- each, with two local sureties, each of the like amount, to the satisfaction of the learned Chief Judicial Magistrate, Kamrup at Amingaon on conditions that those two petitioners – (i) shall appear before the Investigating Officer of said Changsari P.S. Case No. 274/2024 as and when they are required for necessary investigation of the case; (ii) shall not leave the territorial jurisdiction of the Changsari Police Station, without obtaining prior written permission from the concerned I.O. of the case; (iii) shall not hamper with the investigation or tamper with the evidence of the case; (iv) 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 them from disclosing such facts to the Court or to any police officer and (v) shall not indulge themselves in any criminal activities.

14. Any violation of the aforesaid terms and conditions by any of the petitioner Nos. 1 & 2, named above, the bail granted to both of them in said Changsari Police Station Case No. 274/2024 shall stand automatically vacated.

- 15.** This bail application stands allowed to the extent above.
- 16.** Return the case diary.

JUDGE

Comparing Assistant