

GAHC010224562023



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

Case No. : AB/3412/2023

RAHIM UDDIN @ RAHIM ALI
S/O LT. SUKTA MNDAL @ LT. CHUTAKA MANDAL
R/O VILL- KABAITANI PART-IV,
P.S. JUGIGHOPA
DIST. BONGAIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 11.01.2024

Heard Mr. A. Ahmed, learned counsel for the applicant. Also heard Mr. B. Sarma, learned Addl. Public Prosecutor for the State respondent.

2. This is the fourth anticipatory bail application preferred under Section 438 Cr.P.C. by the applicant, namely, Rahim Uddin @ Rahim Ali, who has been

apprehending arrest in connection with BI(EO) P.S. Case No. 23/2021, under Sections 120(B)/420/406 of the IPC, read with Section 7 of the E.C. Act.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by one Dilip Kumar Deka, Superintendent, FCS & CA, on 01.12.2021. The essence of allegation made in the FIR dated 01.12.2021, is that acting on a tip off, the informant, along with other staffs, conducted raid in the rice mill-cum-godown premises of the applicant, situated at village Kabaitari under Jogighopa P.S. in the Bongaigaon district and recovered PDS/TPDS rice in FCI marked jute gunny bags, along with FCI tags and yellow coloured plastic bags, and at the relevant point of time, the applicant was not present in his rice mill premises or in his residence. But, his mother, wife and children were present there and on being asked, they failed to produce any purchase memo, Trade Licence under concerned Gaon Panchayat etc. for storage, sale and dealing licence of the PDS/TPDS rice at his mill-cum-godown premises. During the enquiry, 60 numbers of yellow coloured bags of PDS/TPDS rice of 30 quintals, 200 numbers of empty jute gunny bags along with FCI tags, 3 numbers of 220 litre capacity iron barrel of Blue-dyed S.K. Oil, total of 660 litres had been found and seized preparing seizure list.

4. Mr. Ahmed, learned counsel for the applicant submits that on three earlier occasions, this Court was pleased to dismiss the anticipatory bail applications filed by the applicant and the ground for filing this fourth anticipatory bail application is that the Court has not considered one sale purchase/receipt produced by the applicant in his earlier applications, and therefore, he again preferred the present application on the basis of the aforesaid document. Mr. Ahmed further submits that the applicant has Trade Licence and he purchased the seized rice from the local market and he is no way involved in the offence

alleged in the FIR, and that he is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, Mr. B. Sarma, the learned Addl. Public Prosecutor has produced one verification report submitted by the I.O. of this case pursuant to the observation made by this Court in the order dated 18.10.2023, and perusal of the report indicates that the I.O. had personally verified the genuineness of the sale/purchase receipt, bearing Sl. No. 119, which is enclosed with the petition as Annexure 3, at page 24, and found that the said sale/purchase receipt is fake and was not issued from the market and he also verified from the market in-charge, namely, Atowar Rahman, who stated before him that he never issued any such receipt during his tenure from 01.07.2019 to 30.06.2020, and therefore, Mr. Sarma submits that the petition may be dismissed as the ground for filing this fourth application is only the said sale/purchase receipt, bearing Sl. No. 119.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the report submitted by the I.O.

7. Indisputably, three anticipatory bail applications filed by the applicant earlier, were dismissed by this Court after perusing the case diary. The only ground for filing this 438 Cr.P.C. application is non-consideration of the sale/purchase receipt, bearing Sl. No. 119, allegedly issued by one Atowar Rahman, which is annexed with the petition as Annexure 3, at page 24. It also appears that vide order dated 18.10.2023, this Court was pleased to issue direction to the learned Addl. Public Prosecutor to hand over a copy of the sale/purchase receipt to the I.O. concerned and to get the genuineness of the same verified and during verification, it has come to light that the sale/purchase

receipt bearing Sl. No. 119 is a fake document.

8. In view of the above, this Court is of the view that this fourth anticipatory bail application is found to be not maintainable and therefore, this Court is inclined to dismiss the same.

9. However, liberty will remain with the Investigating Officer to proceed against the applicant in connection with filing of fake document before this Court.

10. In terms of the above, this petition stands disposed of.

11. The report submitted by the I.O. shall be made part of the record.

JUDGE

Comparing Assistant