

GAHC010254032024



2024:GAU-AS:12080

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

Case No. : Bail Appln./3639/2024

MD ANOWAR HUSSAIN
S/O LATE SULTAN MIYA
R/O SATRA KUNARA
PIN- 781308
P.S. BAGHBAR
DIST. BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MS. T SOM, MR H DAS, MS. U HAZARIKA

Advocate for the Respondent : PP, ASSAM,

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

02.12.2024

Heard Ms. T. Som, learned counsel for the petitioner. Also heard Mr. R. J. Baruah, learned Additional Public Prosecutor for the State respondent.

This is an application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 praying for grant of bail to the accused/petitioner, who has been languishing in jail since 31.10.2024 in connection with Garchuk P. S. Case No.345/2024 registered under Sections 281/132/ 303(2) /61(2) /317(2)/3(5) of the BNS, *read with* Section 7 of the Essential Commodities Act, 1955.

It is submitted by Ms. Som, learned counsel for the petitioner, that the co-accused, i.e., the owner of the rice alleged to have been seized from the truck, has already been granted interim pre-arrest bail, considering the materials available in the case diary. She further submits that the present petitioner is neither the owner of the truck nor is he claiming ownership of the rice that is alleged to have been stolen. She further submitted that the petitioner is behind the bar since 31.10.2024 and thus, considering his length of detention, he may be enlarged on bail as well as he is still ready and willing to co-operate with the I. O. in further investigating of the case, if the same is granted.

In this context, Mr. Baruah, learned Additional Public Prosecutor, has submitted that the owner of the rice was allowed to remain on interim pre-arrest bail only with a direction to co-operate with the I.O. in the further investigation of the case. He further submits that the present petitioner/driver of the truck could not produce any documents at the time of the vehicle's interception or at the time of his apprehension. At this stage, he insists on calling for the case diary to ascertain the actual facts of the

case.

Considering the submissions of the learned counsels for both sides, as well as a perusal of the case diary, and in light of the length of detention already undergone by the accused/petitioner, this Court is of the view that the I.O. got ample opportunity to interrogate the accused/petitioner while keeping him in custody. Accordingly, further custodial interrogation of the accused/petitioner does not seem necessary in this case.

Accordingly, it is provided that on furnishing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup, the accused/petitioner, namely Md. Anowar Hussain, be enlarged on bail, subject to the following conditions:

- (i) that the petitioner shall make himself available for interrogation by the Investigating Officer as and when required;
- (ii) that the petitioner 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 the Court or to any police officer; and
- (iii) that the petitioner shall not leave the jurisdiction of the learned Chief Judicial Magistrate, Kamrup without prior permission.

In terms of above, this bail application stands disposed of.

JUDGE

Comparing Assistant