

GAHC010264932023



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

Case No. : AB/3988/2023

MALAY KUMAR CHANDA @ MOLOI CHANDRA AND ANR
S/O LATE MAKHAN LAL CHANDA
VILL- TAJPUR MAIZGRAM
P.S. AND DIST. KARIMGANJ
P.O. AYLABARI, PIN-788712

2: MRINAL SINGHA
S/O LATE NANI GOPAL SIINGHA
VILL AND P.O. MAHISHASAN
P.S. AND DIST. KARIMGANJ
ASSAM
PIN-78878

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. R A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

23.01.2024

Heard Mr. T.J. Mahanta, learned Senior Counsel assisted by Mr. R.A. Choudhury, learned counsel for the applicants and Mr. B. Sharma, learned

Additional Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with the **Nilambazar P.S. Case No. 158/2023**, under Sections 120[B]/420/409/379/411 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, **Malay Kumar Chanda @ Moloi Chandra and Mrinal Singha** for grant of pre-arrest bail.

3. The said case has been registered on the basis of one F.I.R. lodged by SI Dipjyoti Malakar, on 17.09.2023. The essence of allegation made in the FIR is that one Ramyanshu Bhattacharjee; Angchu Dutta; Nokib Ahmed Choudhury; Abdul Hannan; Ashutos Nath; Moloi Chandra; Keshab Teli; Sumon Kanti Das; Mrinal Singha; Subuth Sarma; Kamlu Kanta Ghose; Samiran Biswas, are involved in misappropriation of the PDS rice allotted to the Gandhai Brahmansahan Co-Operative Society, located at Lalpool near FCI Godown, under Nilambazar Police Station and the informant along with this team seized 140 numbers of rice bag and intercepted one Truck, bearing registration No. NL-01-K-9743, from the premises of the aforesaid co-operative society and another 22 numbers of bag were found in a Magic goods carrier vehicle, bearing registration No. AS-10-AC-7745, which was stationed in the front of the godown.

4. Mr. Mahanta, learned Senior Counsel for the applicants submits that the allegation leveled against the applicants is that they have lifted 30 numbers of rice bag each, from the aforesaid co-operative society and being the agent of the co-operative society, it was their duty to collect the same and to distribute the same amongst the beneficiaries. Mr. Mahanta further submits that the applicants are innocent and no way involved with the offence alleged in the FIR, which are primarily against the President and the Secretary of the society and that they are ready to cooperate with the investigating agency and therefore, it

is contended to allow the petition.

5. On the other hand, by producing the Case Diary before this Court, Mr. Shama, learned Additional Public Prosecutor submits that there are materials against the applicants in the FIR and also in the case diary and therefore, it is contended to dismiss the petition.

6. Having heard the submission 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 produced before this Court, with the assistance of learned Additional Public Prosecutor.

7. It is not in dispute that both the applicants are agent of the aforesaid co-operative society and allegation against the applicants relates to lifting of 30 numbers of rice bag each, from the aforesaid cooperative society and being the agent of the co-operative society, it was their duty to collect the same and to distribute the same amongst the beneficiaries.

8. In view of the aforementioned facts as well as the materials collected so far in the case diary and also the submissions of learned counsel of both sides, this Court is of the view that further custodial interrogation of the applicants may not be required, in the interest of investigation.

9. Accordingly, it is provided that in the event of arrest of the applicant, in connection with the **Nilambazar P.S. Case No. 158/2023**, under Sections 120[B]/420/409/379/411 of the IPC read with Section 7 of the E.C. Act, they shall be enlarged on pre-arrest bail, on their executing a bond of Rs. 50,000/- each only, with one surety of like amount to the satisfaction of the arresting authority.

10. The above privilege is, however, subject to the following conditions:

(i) that the applicants shall make themselves available for interrogation by the Investigating Officer as and when required;

(ii) that the applicants 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

(iii) that the applicants shall not leave the jurisdiction of the learned **Chief Judicial Magistrate, Karimganj**, without prior permission.

11. In terms of this AB stands disposed of.

12. The case diary be returned.

Comparing Assistant

JUDGE