

GAHC010285952023



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

Case No. : Bail Appln./4623/2023

SULTAN ALI AHMED
S/O KAZIM UDDIN AHMED
R/O VILL- BAIKHUNGAON
P.S. DHALIGAON
DIST. CHIRANG, BTR, ASSAM
PIN-783384

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR H R A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 08-01-2024

- 1.** Heard learned Senior Counsel Mr. HRA Choudhury for the petitioner assisted by learned counsel Mr. A.M. Khan.
- 2.** The petitioner, namely, Sultan Ali Ahmed has filed this application under Section 439

Cr.PC with prayer for bail as he is behind bars since 02.12.2023 in connection with Bongaigaon Police Station Case No. 458/2023 registered u/s 379/381/406 IPC R/W Section 7 of the Essential Commodities Act, 1955, added Section 413 IPC.

3. Heard Mr. B.B. Gogoi, learned Addl. P.P., Assam.

4. It is submitted on behalf of the petitioner that he is not named in FIR. The other accused including the prime accused who have been named in the FIR have already been enlarged on bail vide order dated 15.12.2023 in connection with Bail Application No. 4500/2023 and vide order dated 23.11.2023 in connection with Bail Application No. 4077/2023.

5. The FIR unfolds that on 29.10.2023 as per secret information, the RPF of New Bongaigaon along with CIB, Rangia had detained one vehicle bearing registration No. NL-01N-7273 which carried HSD Oil from BRPL to Railway Consumer Depot, New Bongaigaon. The investigating team called for a joint verification from the officers from IOCL/ Bongaigaon. During joint verification it was found that as per invoice a total of 24KL HSD Oil was loaded from IOCL, Bongaigaon on 17.10.2023 in the said tanker. But on physical verification it was found that 2 (two) chambers out of five chambers of the vehicle were empty, and 14132 ltrs of HSD oil was found in the remaining three chambers and about 9868 ltrs HSD Oil was found to be missing. Accordingly, they apprehended the driver Sonaullah Sk who was driving the tanker since March, 2023. The owner of the tanker was Mahender Singh. Sonaullah Sk confessed that on 27th October he reached at RCD NBQ for unloading the said tanker. In the intervening night of 28 & 29/10/2023 the driver handed over the keys to one Hitesh @ Hitu. On 29.10.2023 at about 5-30 AM, the driver came in front of RCD for unloading the tanker. Subsequently, Sonaullah Sk was taken to custody on suspicion that he was involved in such mal-practice of pilferage of HSD Oil in the manner described above.

5. The petitioner has prayed for bail on the ground of parity.

6. The learned Addl. PP. has submitted that there are incriminating materials in the Case Diary against the petitioner.

7. I have perused the Case Diary. Indeed there are incriminating materials in the Case Diary against the petitioner. I have considered the length of detention. I have considered the

prayer relating to parity. Further custodial detention for the reason of investigation may not be required in this case.

8. Considering all aspects and in view of my foregoing discussions, petition is allowed. The petitioner is enlarged on bail of Rs. 30,000/- with a suitable surety of like amount to the satisfaction of the learned CJM, Bongaigaon under the conditions that:-

- i. The petitioner shall refrain from such activities with which he is alleged; and
- ii. The petitioner shall not leave the jurisdiction of the Court without prior permission till completion of trial.

On breach of any of the bail conditions, bail order shall stand cancelled.

JUDGE

Comparing Assistant