

GAHC010286632023



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

Case No. : AB/4267/2023

ABU HANIFA
S/O ABDUL KHALEK
R/O VILL- KHAIRAMARI, P.O. KANDHULIMARI,
P.S. DHING
DIST. NAGAON, ASSAM
PIN-782123

VERSUS

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

Advocate for the Petitioner : ALHAJJ I UDDIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

30.01.2024

Heard Mr. A.I. Uddin, learned counsel for the applicant and also heard Mr. B. Sarma, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. Apprehending arrest in connection with BI(EO) P.S. Case No.23/2023, under Section 120(B)/406/420 IPC, read with Section 7 of the Essential Commodities Act, this application under Section 438 Cr.P.C. has been preferred by the applicant, namely, Abu Hanifa, for grant of pre-arrest bail.

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 of FCS & CA, BI(EO), Assam, Guwahati, on 01.09.2023. The essence of allegation made in the aforesaid FIR is that the Secretary and Chairman of M/s Niz-Dhing S.S. Ltd. and others have misappropriated 6099.83 quintals of rice and 675.48 quintals of W/Atta and siphoned off the same to the black market for their personal gain, violating the provisions of Assam Public Distribution Articles Order, 1982 and the Targeted Public Distribution System (Control) Order, 2015, read with provision of the National Food Security Act, 2013.

4. Mr. Uddin, learned counsel for the applicant submits that this Court, vide order dated 20.12.2023 was pleased to grant the privilege of interim pre-arrest bail to the applicant and pursuant to the said order, he had appeared before the I.O. and he has been cooperating with the investigating agency and that basically the allegation is against the Chairman and Secretary of the M/s Niz-Dhing S.S. Ltd. of Bilotia of Dhing Bazar and that the applicant has nothing to do with the same and that he is ready to cooperate with the investigating agency and therefore, it is contended that the interim order dated 20.12.2023, may be made absolute, in the same terms and conditions.

5. On the other hand, Mr. B. Sarma, learned Additional Public Prosecutor, Assam, has produced the case diary before this Court and confirmed that the applicant has been cooperating with the investigating agency and he had appeared before the I.O. and his statement is recorded. Further, Mr. Sarma submits that the materials collected so far in the case diary failed to disclose a legally prosecutable culpability against the present applicant.

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 case

diary with the assistance of Mr. Sarma, learned Additional P.P.

7. In view of the submission of learned Advocates of both the parties and also in view of the materials collected so far in the case diary as well as the cooperation being extended by the applicant to the investigating agency, his custodial interrogation seems to be not warranted here in this case and therefore, this Court is inclined to make the interim order dated 20.12.2023, absolute, in the same terms and conditions. Case diary be returned.

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

Sd/- Robin Phukan
JUDGE

Comparing Assistant