GAHC010139212020

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

Case No. : AB/2745/2020

MIJANUR RAHMAN
S/O. LT. NUR ISLAM, VILL. KHOIRIDAGOSWAIGAON, P.S. CHAPAR, DIST. DHUBRI, ASSAM, PIN-783371.

VERSUS

THE STATE OF ASSAM
REP. BY PP, ASSAM.

Advocate for the Petitioner : MR. M HUSSAIN

Advocate for the Respondent : PP, ASSAM

B E F O R E

HON'BLE MR. JUSTICE HITESH KUMAR SARMA

07-12-2020

This is an application, filed under Section 438 of the Cr.PC. seeking pre-arrest bail of the accused-petitioner, namely, ***Shri Mijanur Rahman,*** in connection with ***Chapar P.S. Case No.375/2020 (G.R. Case No.1330/2020)*** registered under Sections ***379*** of the Indian Penal Code, read with Section 7 of the Essential Commodities Act.

Heard Mr. S. Munir, learned counsel for the petitioner. Also heard Mr. NJ Dutta, learned

Additional Public Prosecutor, Assam appearing for the Respondent State.

Case diary produced has been perused.

The fact of the case, as appears from the FIR, is that on 15.9.2020, the Officer-in-Charge of Chapor Police Station lodged the FIR alleging therein that on 14.9.2020, while himself along with Deborshi Choudhury, Additional S.P., Dhunbri, Sushant Singh and staff had made an enquiry in a godown situated at Khorida Gossaingaon, near NH-31, and found there 730 packets of rice with FCI label thereon containing about 50 kgs of white rice in each packet. Thereafter, the said rice was seized in presence of witnesses. No valid documents in respect of the said rice could be found and doubted the said rice to be stolen FCI/PDS rice, which were kept in the said godown. The informant could also learn that the rice belonged to the present petitioner.

Mr. Munir, learned counsel for the petitioner has submitted that the present petitioner is not the owner of the godown and he had not kept the seized rice there. He has further submitted that the godwown and the land over which the godown is situated belonged to two different persons.

Mr. Dutta, learned Additional Public Prosecutor, referring to a note of the investigating officer in the case diary, has submitted that the owner of the godown and the land over which the godown is situated belonged to two different persons whose names have appeared in the note of the investigating officer.

I have thoroughly examined the case diary.

It appears from the case diary, particularly the note of the investigating police officer, referred to by Mr. Dutta, learned Additonal Public Prosecutor, that the investigating police officer has only referred to the statement of the petitioner to the effect that he (the petitioner) has named two other persons as the owner of the godown as well as the owner of the land over which the godown is situated and denied that he had kept the rice in the said godown. At the same time, after referring to his such statement, the investigating officer has noted in the said note that there are some other evidence collected against the petitioner in respect of his involvement with illegal rice trade and that he is involved with the offence alleged in this case.

I have also examined the statements of the witnesses. It appears from the statements of at-least three witnesses so far examined, that it is the petitioner who used to do illegal trade of rice and that he had kept the rice in the aforesaid godown. Out of the three

witnesses, two witnesses work in the godown under instructions of the petitioner. The materials in the case diary also show that no document could be produced by the petitioner to establish his ownership over the seized rice. He had rather denied that the same belonged to him. The statements of the witnesses, as indicated above, clearly shows involvement of the petitioner with the commission of the offence alleged and that he had stored the rice in the godown.

That being so, considering the nature of the offence and the necessity of a thorough investigation, it is found that it is not a fit case for granting the privilege of pre-arrest bail to the petitioner.

Accordingly, the prayer stands rejected.

Return the case diary.

JUDGE

Comparing Assistant