GAHC010160912020

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

Case No. : AB/3256/2020

NAZRUL HAQUE @ NAZRUL ISLAM AND ANR.
S/O ABDUL HUSSAIN, R/O NO. 1 BATALIMARI, P.S.-BHURAGAON, DIST-MORIGAON, ASSAM

2: ABDUL JALIL
S/O LATE AZGAR ALI
R/O NO. 1 BATALIMARI
P.S.-BHURAGAON
DIST-MORIGAON
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MD. S HUDA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

Date : 11-12-2020

Heard Mr. S. Huda, learned counsel for the petitioners. Also heard Ms. S.H. Bora, learned Addl. Public Prosecutor, Assam appearing for the State respondent.

This second petition under Section 438 Cr.P.C., is filed for granting the privilege of pre-arrest bail to the petitioners, namely **i) Nazrul Haque @ Nazrul Islam** and **ii) Abdul Jalil** apprehending arrest in connection with **Bhuragaon P.S. Case No. 111/2020** registered u/s **272/269/426/420** of the IPC.

The Case diary, as called for, is placed before the Court.

Mr. S. Huda, learned counsel for the petitioners, submits that the petitioners are duly authorised by the competent authority vide licences for preparation of animal food and the aforesaid preparation requires use of molasses, which is an item mentioned in their licence. Mr. Huda further submits that the instant second pre-arrest bail petition is filed in view of the reliefs granted in AB 3004/2020; Crl. Pet. No. 529/2020 of this Court and order, dated 02.11.2020 passed in I.A. (Zimma) No. 96/2020 in connection with Bhuragaon P.S. Case No. 111/2020 by the learned Addl. C.J.M., Morigaon.

Ms. S.H. Bora, learned Addl. Public Prosecutor, submits that the earlier pre-arrest bail application of the petitioners was rejected by an order, dated 19.10.2020, on having found prima facie material.

The F.I.R. dated 09.08.2020, lodged by S.I. Josowanta Nath of Bhuragaon P.S. alleged that the petitioners are running the business of collecting jaggery of low quality and after mixing sugar, flour and colour, sales in the market at a high price affecting public health.

On perusal of the case diary, it is revealed that the investigating officer has seized the incriminating inedible/adulterant jaggery, flour, artificial colour etc. from the house and premises of the petitioners. There is indication that allegedly adulterated food items were prepared. But the report on the samples of the seized materials is yet to be received from the office of the Commissioner, Food and Drug Administration, State Public Health Laboratory, Guwahati. No reliable scientific evidence has come till date as to whether the seized food was meant for human consumption or for animals. On the other hand, in support of the averments made in the petition, the petitioners have produced their certificate of issuance vide No. DICC/Morigaon/EM(PT-2) 01203/2016/330, dated 18.11.2016 in favour of the petitioner No. 2 and Licence, dated 09.07.2020 in favour of the petitioner No. 1 for the purpose of preparation of fodder items. Therefore, this Court is of the view that if the

privilege of pre-arrest bail is granted to the petitioners, that will certainly help in expediting the investigation.

Accordingly, it is provided that in the event of arrest, each of the petitioners, named above, shall be released on pre-arrest bail, in connection with the above noted case on furnishing bail bond of **Rs. 30,000/- (Rupees Thirty Thousand) each** with one surety of like amount to the satisfaction of the arresting authority, subject, of course, to the following conditions:

(i) That the petitioners shall appear before the Investigating Officer within 7 days;

(ii) That the petitioners shall not hamper or tamper with the investigation in any manner; and

(iii) That the petitioners 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.

Return the case diary.

This disposes off the anticipatory bail application.

JUDGE

Comparing Assistant