

GAHC010040332024



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

Case No. : AB/480/2024

MANJUR RASID AHMED
S/O LATE ABDUS SAMAD
RESIDENT OF VILLAGE NO. 1, NACHANKURI, PO GORAIMARI, PS
MANIKPUR, DIST BONGAIGAON, ASSAM 783390

2: PINTU GUPTA
S/O MANEJAR GUPTA
RESIDENT OF VILLAGE AND PO PARASIYA CHITANI SINGH
PS KHAMPAR
DIST DEORIA
UTTAR PRADESH
27470

VERSUS

THE STATE OF ASSAM
REP BY THE PP ASSAM

Advocate for the Petitioner : MR. J ABBAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

04.03.2024

Heard Mr. J. Abbas, learned counsel for the applicants and also heard Mr. B. Sarma,

learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application under Section 438 Cr.P.C. is preferred by two applicants, namely, Manjur Rasid Ahmed and Pintu Gupta, who have been apprehending arrest in connection with Bongaigaon P.S. Case No.443/2023 under Section 379/381/406 IPC, read with Section 7 of the Essential Commodities Act, for granting 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 S.I. Sukesh Ghosh, I/C North Bongaigaon P.P. on 18.10.2023. The essence of allegation made in the aforesaid FIR is that on 17.10.2023, acting on a tip off, the informant along with staff conducted search in Gupta Dhaba, situated at Goroimari and found pilfering of oil from an oil tanker, bearing Registration No.NL-01AA-3255 by the driver of the same, namely, Guddu Sah with a green coloured pipe with a blue coloured drum and having seen the same some persons fled away from the place of occurrence. Accordingly, he has seized the said tanker and the items by preparing seizure list in presence of witnesses.

4. Mr. Abbas, learned counsel for the applicants submits that the applicant No.1 Manjur Rasid Ahmed is the earlier owner of the Dhaba and the applicant No.2 Pintu Gupta is the present owner of the said Dhaba and they are no way involved with the offence alleged in the FIR and the driver of the tanker has already been arrested by police and the present applicants are ready to cooperate with the investigating agency and therefore, it is contended to allow this petition.

5. On the other hand, Mr. B. Sarma, learned Additional Public Prosecutor, Assam, has produced the case diary before this Court and submits that the I.O. has collected some materials in support of the allegation made in the FIR, specially against the owner of the Dhaba, and therefore, opposed the petition.

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 materials collected so far in the case diary and also in view of the progress of investigation as well as the submission of learned Advocates of both sides, custodial interrogation of the present applicants seems to be not warranted here in this case and therefore, this Court is inclined to allow the petition. Accordingly, it is provided that in the event of arrest of the applicants, namely, Manjur Rasid Ahmed and Pintu Gupta, in connection with Bongaigaon P.S. Case No.443/2023 under Section 379/381/406 IPC, read with Section 7 of the Essential Commodities Act, they shall be enlarged on pre-arrest bail on their executing a bond of ₹ 50,000/- each, with one surety of the like amount to the satisfaction of the arresting authority. The above privilege is, however, subject to the following conditions:-

- (i) The applicants shall make themselves available for interrogation by the Investigating Officer as and when required.
 - (ii) 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 him from disclosing such facts to the Court or to any police officer; and
 - (iii) The applicants shall not leave the jurisdiction of the learned C.J.M., Bongaigaon, without prior permission.
8. In terms of above, this anticipatory bail application stands disposed of.
9. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant