

GAHC010252712023



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

Case No. : AB/3779/2023

RAMA KANT GIRI
S/O LT. ISWAR GIRI R/O H NO. 1 TETELI TALPATH PS ODALBAKRA DIST.
KAMRUP M ASSAM PIN 781034

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. N DUBEY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 30-11-2023

1. Heard Mr. N. Dubey, learned counsel for the petitioner Rama Kant Giri.
2. The petitioner has filed this application under Section 438 Cr.P.C. with prayer of pre-arrest bail as he is apprehending arrest in connection with Garchuk Police Station Case No. 295/2023 under Sections 120(B)/379/468/409 IPC read with Section 7 of Essential Commodities Act, 1995.

3. Heard Mr. B.B. Gogoi, learned Addl. P.P., Assam.
4. The FIR unfolds that the complainant received an information on 27.10.2023 that a group of unscrupulous miscreants have been indulging in stealing Diesel/Petrol etc. from oil tankers loaded at IOC Terminal Betkuchi, Guwahati for selling the same at different locations and these miscreants have been working in an organized manner. The complainant along with the OC and the police staff with members of the SOG team of West Guwahati Police District, launched an operation at about 11 AM on the same day and detected two oil tankers and caught one miscreant red-handed while transferring huge volume of diesel oil from one oil tanker to another oil tanker inside the covered boundary of one scrap shop located at Lalunggaon, National Highway 27 near the show room of Binod Nissan under Gorchuk PS. The tankers were placed parallelly side by side and one Kirlosker Motor pump was fitted with plastic pipe to extract and transfer oil from one vehicle to the other. One grinder machine, big sized plastic gallons were also recovered at the spot. A group of 5 or 6 persons were active at the spot, but they managed to escape through the backside. The apprehended accused is Jayanta Barman @ Horu. Two oil tankers bearing Registration No. AS01/DC-5446 and AS12/E-1486 and all other equipments and materials were recovered and seized at the spot. It was also noticed that the vehicle bearing Registration No. AS01/DC-5446 was fully loaded and oil was transferred from that vehicle to another vehicle bearing Registration No. AS12/E-1486 using the motor pump. The seized vehicles were kept inside one truck parking under safe custody near ISBT.
5. During investigation Jayanta Barman revealed that a group of miscreants in an organized manner have been committing theft from oil tankers loaded at IOC terminal, Betkuchi and have been selling the oil at different locations of Assam and Meghalaya illegally for wrongful gain and profit, which is shared amongst the miscreants. Rafique Hoque of Katahbari area and Sukur Ali had escaped during the search operation. It is learnt that the apprehended person Jayanta Das works as a communicator of the gang and arranges sale points for the gang. There is an unholy nexus with some railway employees also who fabricate and forge documents in connection with the theft of oil and sale of the same. The oil transported in the tanker No. 5446 was meant for use by railway department. It is apparent that an offence causing loss to public property has been committed.
6. The learned Addl. P.P. has submitted that at this stage of investigation there are no materials against the present petitioner who is the owner of the tanker bearing Registration No. AS01/DC-5446. The statements of witnesses and accused-persons have been recorded during the investigation.
7. I have also perused the Case Diary. Investigation is still under progress. I have considered the

submission of the petitioner that he is willing to co-operate with the investigation and he is innocent. The petitioner is a local resident. He is not the owner of the tanker No. AS12/E-1486 to which the diesel was stealthily transferred. I have also considered the submission that the driver of the petitioner who is the owner of the other tanker No. 1486 is absconding. The co-operation from the petitioner is also required for progress of investigation which has been stalled as the driver of the petitioner Rafique Hoque is absconding and the driver of the petitioner is the prime accused in this case.

8. Considering all aspects and in view of my forgoing discussions, petition is allowed. In the event of his arrest, the petitioner shall be enlarged on bail of Rs. 30,000/- with a suitable surety of like amount to the satisfaction of the arresting authority under the conditions that:-

- (i) the petitioner shall refrain from such activities with which he is alleged;
- (ii) The petitioner shall appear before the IO within 7 (seven) days and co-operate with the investigation; and
- (iii) the petitioner is directed not to tamper with the evidence or influence witnesses.

On the event of failure of the petitioner to abide by the bail conditions, the bail order shall stand cancelled.

9. Send back the Case Diary.

JUDGE

Comparing Assistant