

Misc. CrI. Case no. 514 of 2021

15-09-2021

The learned Counsel for the petitioner as well the learned P.P. for the State is present.

This is an application u/s 439 of the Cr.P.C. with a prayer to grant bail to accused-persons namely Pulin Chandra Rabha who has been detained in connection with Excise case no. 481/2021 u/s 53(1) (a) of Assam Excise Act.

I have heard the learned Counsel for the accused as well as learned P.P. for the State through video conferencing and also perused the case record as well as the progress report submitted by the Inspector of Excise, Dudhnoi. Learned Counsel for the petitioner submitted that the accused is and innocent person and has not committed any offence as alleged. It is also submitted that the investigation officer without any valid reasons has arrested the accused without complying the due process of law. It is also submitted that the seizure of the bottles of liquor was done illegally as it is evident that the seizure was done in presence of only a single witness. Accordingly, it is prayed that the accused may be release on bail after imposing certain conditions. On the other hand Id. P.P. submitted that the investigation of the case is almost over and the case is simply pending for receipt of chemical examination report.

The brief facts of the prosecution case is that on 3rd September, 2021, a surprise raid was conducted by the Inspector of Excise, Dudhnoi along with the assistance of officials of the Excise Department under the supervision of Superintendent of Excise, Goalpara

seized a number of IMFL liquor which were kept in the shop premises of the accused. Accordingly, the case was registered and investigation was conducted.

In course of investigation, the accused Pulin Chandra Rabha was arrested and remanded to judicial custody. During investigation, samples of sealed liquor bottles were taken and sent for chemical analysis.

On perusal the progress report and the case record, it appears that during the investigation, the police arrested the accused Pulin Chandra Rabha on 03-09-2021 and since then the accused Pulin Chandra Rabha is languishing in jail. It also appeared that the samples of seized liquor is sent for chemical examination and report is awaited. As soon as a favorable report is received, the investigating agency will probably submit an offence report. Therefore, the investigation appears to be almost complete and as such this court is of the view that no further, custodial detention of accused is required.

It is more so, in view of the fact of present pandemic situation, the jail needs to be decongested for the safety of other inmates of the jail in order to prevent overcrowding and spread of COVID-19 infection in prisons. Having regard to the above, the bail prayer in favour of the accused needs to be allowed.

Accordingly, the application is allowed. It is therefore ordered that the accused-person namely Pulin Chandra Rabha be released on bail on his furnishing bond in the sum of Rs. 15,000/- with one

local surety of like amount to the satisfaction of learned Magistrate concerned in default to remain in jail hazot on condition that accused shall not commit an offence similar to the one of which he is accused and further the accused shall not directly or indirectly make any inducement, threat or promises to any person acquitted with the facts of the instant case so as to dissuade him or her from disclosing such facts to the court or to any excise officer or tamper with the evidence.

Let the progress report submitted by the Inspector of Excise, Dudhnoi be kept along with the case record.

A copy of this order shall be furnished to the petitioner or their learned Counsel forthwith by the Bench Assistant/ Court Master under his signature and this order shall also be uploaded in the official website of the District Judiciary, Goalpara.

Inform all concerned accordingly.

This bail petition is thus disposed of.

Sessions Judge,
Goalpara.