

GAHC010010702023



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

Case No. : Bail Appln./196/2023

MD HAFZUR AHMED
S/O- LATE MAHIBUDDIN AHMED, R/O- VILL- MUKALMUA MILANPUR, P.S-
MUKALMUA, DIST- NALBARI, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. B CHOWDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MRS. JUSTICE MALASRI NANDI
ORDER

02.02.2023

Heard Mr B Chowdhury, learned counsel for the petitioner and Mr D Das, learned Additional Public Prosecutor for the State of Assam.

2. By filing this application under Section 439 CrPC, the petitioner, Md Hafzur Ahmed, who was arrested on 24.12.2022, in connection with Mukalmua PS Case No. 639/2022, corresponding to GR Case No. 1733 of 2022, under Sections 120(B)/420/201 of the Indian Penal Code, 1860, read with Section 13 of the Assam Cattle Preservation

Act, 2021, has prayed for releasing him on bail.

3. The Case diary has been received. Perused the same.

4. As per the FIR, the allegation against the petitioner is that the petitioner had received three numbers of permits from the Directorate of Animal Husbandry and Veterinary, Chenikuthi, Guwahati, for transportation of 380 numbers of cows, and during enquiry, the farm was visited, but no cattle were seen in his farm. As per the report of the District Veterinary Officer, Nalbari, the petitioner had transported 127 numbers of cows. On being asked, the petitioner has stated that he had sold some cows at local markets which had drew suspicion that the cattle was diverted to some other purpose, including slaughter, rather than the permit it was issued for. Subsequently, on receipt of the FIR, the case was registered vide Mukalmua PS Case No. 639 of 2022, under Sections 120(B)/420/201 of the Indian Penal Code, 1860, read with Section 13 of the Assam Cattle Preservation Act, 2021.

5. Learned counsel for the petitioner has submitted that the accused petitioner is a registered dairy farmer, having number of cows in his possession. He applied for permit for transportation of the cattle and, thereafter, it was issued by the Government for transportation of his cattle. There is no any illegality committed by the present petitioner, but he has been detained in custody for more than 40 days. So bail may be granted to him.

6. On the other hand, learned Additional Public Prosecutor has submitted that the accused petitioner has a cattle farm and he used to sell cows, rather than the purpose for which the permit was issued, including the slaughter, by violating the provisions of the Assam Cattle Preservation Act, 2021. So, bail may not be granted to him.

7. I have considered the submissions made by the learned counsel for both the parties. I have also perused the Case Diary, which has been received today.

8. It appears from the record that the permit was issued to the petitioner for

transportation of cattle, but there is no allegation against him that he has illegally transported any cattle, but the allegation is that he has not maintained the documents regarding utilization of the transportation of the cattle-stock, properly and it is strongly suspected that the petitioner used to sell the cattle for some other purpose, including slaughter. But on perusal of the Case Diary, it reveals that the statements of the witnesses were recorded under Section 164 CrPC by the learned Magistrate, from which it reveals that the witness is dealing with the business of milk and about two years back, he had come to know that one Ludu, by name, had opened the firm and he met with him and he purchased one female cow from him by paying Rs. 90,000/-, but no receipt was provided to him for such purchase.

9. Considering the materials available in the Case Diary as well as the period of detention, this Court is of the opinion that the privilege of bail may be extended to the petitioner. Accordingly, it is hereby directed that the petitioner, namely, Md Hafzur Ahmed, shall be released on bail on his furnishing bail bond of Rs. 20,000/- with one surety of the like amount to the satisfaction of the learned Chief Judicial Magistrate, Nalbari, in connection with the aforesaid case.

10. Send back the Case Diary.

11. With the aforesaid directions, this Bail Application stands disposed of.

JUDGE

Comparing Assistant