

GAHC010013052023



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

Case No. : Bail Appln./245/2023

ASMOT ALI
S/O LATE ABBAS ALI
R/O BOYZERALGA PART-II
P.S. FAKIRGANJ
DIST. DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A T SARKAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MRS. JUSTICE MALASRI NANDI
ORDER

02.02.2023

Heard Mr A T Sarkar, 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, Asmot Ali, who was arrested on 04.01.2023, in connection with Bilasipara PS Case No. 03/2023

(corresponding to GR Case No. 04/2023) under Sections 379/411 of the IPC, read with Section 13 (1) of the Assam Cattle Preservation Act, 2021, has prayed for releasing him on bail.

3. The Case Diary has been received.

4. The FIR has been lodged before the In-charge, Nayer Alga Outpost, under Bilasipara Police Station, alleging that the complainant, along with some Police personnel of Nayeralga Outpost recovered three numbers of cows from the possession of the present petitioner (a boatman) and another boatman at Shaildara/Bhaglara Ghat, while they were illegally transporting the cattle in their machine-boat. During enquiry, the accused persons could not produce any valid documents for transporting the cattle in their machine boat. As such, as the cattle were suspected to be stolen by the accused petitioner and the other boatman, those were seized accordingly and the accused petitioner, along with the other accused person were apprehended.

5. Learned counsel for the petitioner has submitted that the accused petitioner is a cultivator by profession and he has never indulged himself in any criminal activities and allegation brought against him is totally false and baseless. The accused petitioner has been detained in custody for the last one month for committing the offence, as alleged. Hence, the petitioner may be released on bail.

6. On the other hand, learned Additional Public Prosecutor has submitted that on perusal of the Case Diary, it reveals that no any document has been produced by the accused petitioner for possessing the said cattle and the boat. 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.

8. It appears from the Case Diary that three numbers of cows were seized from the possession of the present petitioner and another person, who are the boatman, by

profession. The allegation against the petitioner is that he is the habitual offender in cattle smuggling in Indo-Bangladesh Border Area, by using the seized boat, during commission of the crime. It is alleged that the cattles were suspected to be stolen by the accused petitioner, but from the Case diary, it cannot be ascertained that the seized cows were stolen by the accused petitioner, with the help of other arrested accused. As the cows have been recovered at this stage, further custodial interrogation of the petitioner is not required.

9. Considering the materials available in the Case Diary as well as the facts and circumstances of the case, 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, Asmot Ali, 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 SDJM (M), Bilasipara, 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