

GAHC010037082023



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

Case No. : Bail Appln./857/2023

SAHIDUR RAHMAN KHANDAKAR @ SHAHIDUR RAHMAN KHANDAKAR
S/O ABDUL AWAL KHANDAKAR
VILL- JHAGRARPAT PT.III

P.S. AND DIST. DHUBRI
ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP
ASSAM

Advocate for : MR. M MONDAL
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

14.03.2023

Heard Mr. HRA Choudhury, learned Sr. Counsel appearing for the accused petitioner as well as Mr. B. Sarma, learned Addl. P.P., Assam for the state respondent.

By this petition under Section 439 Cr.P.C., the accused-petitioner, namely **Sahidur Rahman Khandakar @Shahidur Rahman Khandakar** has prayed for grant of bail in connection with **Dhubri P.S. Case No. 19/2023** u/s **120B/489B/489C/34** of the IPC read with Sections **13/16** of the Assam Cattle Preservation Act.

The case diary, as called for, is placed before the Court.

Mr. HRA Choudhury, learned Sr. Counsel appearing for the accused petitioner, submits that the accused petitioner has been languishing in jail for 46 days since 27.01.2023 despite being absolutely innocent. It has been submitted that on plain reading of the FIR shows that there is nothing on record to show the ingredients of Section 13/16 of the Assam Cattle Preservation Act and on the other hand, no recovery of any fake currency note was made from his possession. Mr. Choudhury also submits that the instant case the alleged offence at best attracts Section 489B of the IPC which is a bailable offence but not 489C as has been registered. Therefore, Mr. Choudhury submits that subject to any condition the accused petitioner may be directed to be released on bail.

Mr. B. Sarma, learned Addl. Public Prosecutor, submits that the case diary reveals that the accused petitioner is involved in cross border smuggling of cattle and in such transactions he along with others mix up fake currency notes with real Indian currency notes while making investment in such cattle business. Mr. Sarma further submits that it is apparent from the case diary that the accused petitioner in connivance with the co-accused persons put in circulation of fake Indian currency notes which are imported from Bangladesh. It is noticed that the accused petitioner has complicity to a big international gang of smugglers in cattle trafficking and fake Indian currency notes and further, that

co-accused persons whose names have come up during investigation are yet to be arrested. It is also submitted that the sample of seized currency notes recovered from co-accused persons are reported to be fake Indian currency notes by the F.S.L., Assam.

The FIR, dated 21.01.2023 lodged by SI Hirak Jyoti Das of Dhubri P.S. reveals the allegation that on 19.01.2023, on the basis of reliable source information regarding trading of cattle in exchange of money by one Jahirul Islam along with some other persons, the informant along with his police staff went to Chowk Bazar at Dhubri Town and apprehended said Jahirul Islam. On examination of the mobile phone of the accused person it was learnt that several conversations were made by him with person from Bangladesh and transaction of huge amount of money had been done with one Subrata Dey, Hayder Ali and others. It was also found that one Mydul of Bangladesh works as mediator while sending illegal money received from cattle smuggling to Jahirul through one Sahajahan Ali, who was also arrested. Jahirul paid those money to the cattle smugglers of Dhubri and South Salmara where he mixes some counterfeit notes with original Indian currency. During house search an amount of Rs.3,000/- counterfeit notes (500x6) along with one Pass Book in the name of one Anowar Hussain were recovered. It was found from the bank statement of Anowar Hussain that he had transacted an amount of Rs.1,28,52,952/- from 13.12.2022 to 20.01.2023. Several other persons were also found involved in the said illegal act.

A perusal of the case diary, it is prima facie revealed that the accused petitioner, whose complicity came to light during investigation, used as genuine fake Indian currency notes knowingly and they are involved in cross border

smuggling in cattle (Indo-Bangla international border). Such criminal act is undoubtedly a threat to the national economy of India. Some co-accused persons are yet to be arrested.

Therefore, this Court is of the opinion that if the liberty of bail is granted to the accused petitioner, the remaining part of investigation into the case may likely to be hampered.

Accordingly, the bail application of the accused petitioner stands rejected.

Return the case diary.

This disposes of the bail application.

JUDGE

Comparing Assistant