

GAHC010093672023



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

Case No. : AB/1588/2023

KRISHNA KANTA RABHA AND ANR
S/O CHANDRAKANTA SARKAR CHOUDHURY
VILL- BANIYAPARA
PS. RANGAJULI
DIST. GOALPARA, ASSAM

2: NITYANANDA RABHA
S/O AMULYA RABHA
VILL- MOISHKHULIPARA
P.S. RANGJULI
DIST. GOALPARA
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M HOQUE
Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK
ORDER

21-06-2023

Heard Mr. M. Hoque, learned counsel for the petitioners and Mr. B. Sarma, learned Additional

Public Prosecutor, Assam for the State.

By this application filed under Section 438 Cr.P.C., the petitioners, namely, (i) **Krishna Kanta Rabha** and (ii) **Nityananda Rabha**, apprehending their arrest, are seeking pre-arrest bail in Dhupdhara Police Station Case No. 30/2023 registered under Sections 379/413 IPC read with Section 13 (1) of the Assam Cattle Preservation Act, 2021 and Section 11 (d) of the Prevention of Cruelty to Animal Act, 1960, corresponding to G.R. Case No. 465/2023.

The petitioners are on interim bail in said Dhupdhara P.S. Case No. 30/2023 since 08.05.2023.

As per the FIR of the case dated 22.03.2023, on a specific information, on the night of 21.03.2023 around 12:00 pm, police intercepted two vehicles at Dhanubhanga, Madang, Gulianpara smuggling cattle towards Meghalaya under the jurisdiction of Dhupdhara Police Station and on seeing the police patrol, the accused persons managed to escape taking advantage of thick vegetation and darkness, but somehow, police patrol apprehended one Manoj Kumar Daimary with the help of local villagers after a brief chase and around 19 Nos. of cattle (Bullocks), 2 Nos. of Tata Yodha vehicles bearing registration Nos. AS-25-CC-5290 and AS-25-DC-4158, 2 Nos. of Motor Cycles, i.e., (i) Pulsar RS 200 bearing registration No. AS-01-EZ-8452 and (ii) Pulsar 150 DTS-I bearing registration No. AS-18L-0535 were seized from the spot from the possession of the accused persons.

During the interrogation of the apprehended accused by police, said apprehended accused, i.e., Manoj Kr. Daimary revealed names of some other persons involved in such smuggling of cattle to the State of Meghalaya.

As per the case diary, the petitioners herein are the facilitators of the cattle to the accused persons named in the FIR.

Mr. Sarma, learned Additional Public Prosecutor, Assam from the case diary submits that the petitioners appeared before the concerned Investigating Officer of the case after obtaining the interim bail granted to them by the Court earlier on 08.05.2023 and their statements have been recorded and that they are co-operating with the investigation of the case.

It is placed before the Court that by order dated 07.06.2023, the Court granted interim bail to one of the co-accused of the case, namely, Binay Rabha in said Dhupdhara P.S. Case No. 30/2023 in AB No. 1485/2023.

Considering the above and the materials available in the case diary, the Court is of the view that custodial interrogation of the petitioners are not warranted to investigate said Dhupdhara P.S. Case No. 30/2023. As such, this pre-arrest bail application of the petitioners, named above, in said Dhupdhara P.S. Case is accepted.

The petitioners, namely, **Krishna Kanta Rabha** and **Nityananda Rabha** are already on interim bail in said Dhupdhara P.S. Case No. 30/2023 granted to them earlier on 08.05.2023 and the same is hereby made absolute on the terms and conditions that the petitioners shall (i) appear before the Investigating Officer of Dhupdhara P.S. Case No. 30/2023, as and when they are required for necessary investigation of said Dhupdhara P.S. Case; (ii) not leave the territorial jurisdiction of the Dhupdhara Police Station, without obtaining prior written permission from the concerned Investigating Officer of the case; (iii) not hamper with the investigation, or tamper with the evidence of the case and (iv) not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer.

With the above observation and directions, this pre-arrest bail application accordingly stands allowed to the extent above.

Return the case diary.

JUDGE

Comparing Assistant