

GAHC010099992023



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

Case No. : AB/1681/2023

MD. ABDUR RAHIM SK.,
S/O ABDUL JALIL SK.
VILL- SAGUNCHORA
P.S. TAMARHAT
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
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 15.06.2023

Heard Mr. A. T. Sarkar, learned counsel for the petitioner. Also heard Mr. D. Das, learned Additional Public Prosecutor for the State.

This is an application under Section 438 of the Code of Criminal Procedure,

1973, for grant of pre-arrest bail to the petitioner, namely Md. Abdur Rahim Sk., who is apprehending arrest in connection with Gauripur P.S. Case No.166/2023 (corresponding to G.R. No. 681/2023) under Sections 379/411/279/427 of the Indian Penal Code read with Section 11(1)(a)(d)(h) of the Prevention of Cruelty to Animals Act, 2021 read with Section 13(1) of the Assam Cattle Preservation Act (corresponding to G.R. No. 681/2023).

The accusation in this case is that on 01.04.2023, one Shri Krishna Kant Singh of Daobhangi Patrol Out Post under Gauripur Police Station lodged an FIR before the Officer-in-Charge Gauripur Police Station *inter-alia*, alleging that on 01.04.2023 on the basis of secret information received, a Naka checking was conducted at Daobhangi Patrol Out Post. At that time, one vehicle was coming from Kokrajhar side towards Gauripur at a high speed. The said vehicle was signalled to be stopped, but the driver of the vehicle disobeyed the police signal and proceeded towards Gauripur at a very high speed, and consequently, the vehicle hit one electric post in front of the Patrol Post. It was found that the vehicle was carrying 10 cows, out of which, two cows were found to be dead.

On receipt of the said FIR, the Officer-in-Charge of Gauripur Police Station registered a Gauripur P.S. Case No.166/2023 (corresponding to G.R. No. 681/2023) under the above mentioned provisions of law.

The learned counsel for the petitioner submits that he is in no way involved in the present case, however, the police has raided his house in search of the petitioner as well as his brother.

It is also submitted that the police has in the meanwhile arrested his younger brother, Abdul Salam Sk. and as the present petitioner was not in the residence when the police came to take him from the residence, he could

not be arrested.

The learned counsel for the petitioner has further submitted that the petitioner was not furnished any notice under Section 41 and 41 (A) of the Code of Criminal Procedure as per guidelines of the Hon'ble Supreme Court of India in Arnesh Kumar's case.

On the other hand, learned Additional Public Prosecutor has vehemently objected the prayer for grant of bail to the present petitioner on the ground that there are incriminating materials in the case diary against the present petitioner which does not justify him being released on anticipatory bail.

However, on perusal of the case diary, it appears that the Investigating Officer of Gauripur P.S. Case No.166/2023 has made substantial progress in the investigation of this case. The only important aspect which is still to be done is to interrogated the present accused petitioner.

It also appears that this Court has granted bail to the younger brother of the accused in B.A. No. 1687/2022.

Considering the materials in the case diary, this Court is of the considered opinion that if the present petitioner co-operates with the Investigating Officer, his custodial detention may not be necessary for fair completion of investigation in this case.

In view of the above, the accused-petitioner, Md. Abdur Rahim Sk. is directed to surrender before the Investigating Officer of Gauripur P.S. Case No.166/2023 within a period of seven (07) days from today, and co-operate with him in completion of the investigation of this case.

If he does so, within the stipulated period, in the event of his arrest in connection with Gauripur P.S. Case No.166/2023, the arresting authority shall allow him to go on bail of Rs.50,000/- (Rupees Twenty Thousand only) with one surety of like amount to the satisfaction of arresting authority with following conditions:

1. That the accused shall co-operate with the Investigating Officer in completion of the investigation.
2. The accused-petitioner shall 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 from disclosing such facts to the Court or to police officer or tamper with the evidence in connection with the case.

With the above observations, this anticipatory bail application is disposed of.

Send back the case diary.

JUDGE

Comparing Assistant