

GAHC010102932023



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

**Case No. : AB/1701/2023**

ABUL HUSSAIN  
S/O BILLAL HUSSAIN  
R/O VILL- BRAHMA BEEL, SAMAGURI  
P.S. SAMAGURI, DIST. NAGAON, ASSAM, PIN-782138

VERSUS

THE STATE OF ASSAM  
REP. BY THE PP, GOVT. OF ASSAM

**Advocate for the Petitioner : MR A DEKA**

**Advocate for the Respondent : PP, ASSAM**

**BEFORE**  
**HONOURABLE MRS. JUSTICE MALASRI NANDI**

**ORDER**

**Date : 12.06.2023**

Heard Mr. S. Dewri, learned counsel for the petitioner. Also heard Mr. B. Sharma, learned Additional Public Prosecutor for the State/respondent.

This is an application filed under **Section 438 Cr.P.C.**, praying for pre-

arrest bail by the petitioner, namely, **Abul Hussain**, in connection with **Bokakhat Police Station Case No. 44/2023** registered **under Sections 379/411 of IPC r/w Section 13(1) of the Assam Cattle Preservation Act and r/w Section 11(1)d of Prevention of Cruelty to Animals Act 1960.**

It has been submitted by the learned counsel for the petitioner that the petitioner is the registered owner of the seized vehicle, though he has no knowledge regarding carrying of the cattle in his private passenger car. The driver who was driving the vehicle fled away from the place and as the petitioner is the owner of the vehicle, the police is in search of him as such, he is apprehending arrest in connection with the aforesaid case and filed this petition.

On the other hand, Mr. Sharma, learned Addl.P.P. has submitted that in the aforesaid vehicle four cows were found of which one cow died. From the case diary, it also reveals that the veterinary doctor who conducted the post mortem on the dead body of cow, opined that the animal might have died due to respiratory failure because of asphyxia. Under such backdrop, the prayer of the petitioner may not be considered at this stage.

I have considered the submissions made by the learned counsel for the parties. I have also perused the case diary.

Anticipatory bail cannot be granted in the case of this nature. But at the same time, I am inclined to permit the petitioner to surrender before the investigating officer for the purpose of interrogation and then to have his application for bail considered by the Magistrate having jurisdiction. Accordingly, the petitioner shall surrender before the investigating officer on 21.06.2023 for the purpose of interrogation and recovery of incriminating materials, if any. The

petitioner shall, thereafter, be produced before the Magistrate concerned and file an application for regular bail. On being convinced that the petitioner has been interrogated by the police, the Magistrate shall preferably on the same date on which the application is filed, release the petitioner on bail, by executing a bond of Rs.15,000/- with two sureties of the like amount to the satisfaction of the Magistrate and subject to the following conditions-

(a) the petitioner shall make himself available for interrogation as and when required by the investigating officer;

(b) the petitioner shall not influence or intimate the prosecution witnesses nor shall make any attempt or tamper with the evidence of the prosecution;

(c) the petitioner shall not commit any such offence while on bail;

(d) the petitioner shall appear before the Investigating Police Officer once in a week for six weeks after his release on bail as and when called upon by the Investigating Police Officer till the investigation of the case is completed and

(e) if the petitioner commits breach of any of the above conditions, the bail granted to him shall be liable to be cancelled.

In view of above observation, the anticipatory bail application stands disposed of accordingly.

Return the case diary.

**JUDGE**

**Comparing Assistant**