

GAHC010105132023



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

Case No. : AB/1726/2023

NAKIBUR RAHMAN
S/O GIAS UDDIN AHMED R/O DHOBANG GAON P.S DERGAON DIST.
GOLAGHAT ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. K BORUAH

Advocate for the Respondent : PP, ASSAM

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

21-06-2023

Heard Ms. P. Das, learned counsel appearing on behalf of Mr. K. Boruah, learned counsel for the petitioner and Mr. B. Sarma, learned Additional Public Prosecutor, Assam for the State.

By this application filed under Section 438 Cr.P.C., the petitioner, namely, **Nakibur Rahman,**

apprehending his arrest, is seeking pre-arrest bail in Golaghat Police Station Case No. 146/2023 registered under Sections 120(B)/279/379 IPC read with Section 13 of the Assam Cattle Preservation Act, 2021 and Section 11 of the Prevention of Cruelty to Animal Act, 1960, corresponding to G.R. Case No. 287/2023.

The petitioner is on interim bail in said Golaghat P.S. Case No. 146/2023 since 17.05.2023.

As per the FIR of the case dated 07.05.2023, during naka checking on 06.05.2023 around 10:00 pm at Padumoni, one Bolero Pick-up vehicle bearing registration No. AS-05-C-7173 proceeding towards Golaghat from Dergaon was apprehended, but taking advantage of darkness, the driver of the said Bolero Pick-up vehicle ran away leaving his said vehicle with 7 Nos. of cows. Said Bolero Pick-up vehicle as well as cows were seized by police.

Accordingly, Golaghat P.S. Case No. 146/2023 was registered under Sections 120(B)/279/379 IPC read with Section 13 of the Assam Cattle Preservation Act, 2021 and Section 11 of the Prevention of Cruelty to Animal Act, 1960.

By order dated 17.05.2023, the Court granted interim bail to the petitioner in said Golaghat P.S. Case No. 146/2023, pursuant to which, he appeared before the concerned Investigating Officer of the case and his statement was recorded under Section 161CrPC by the concerned Investigating Officer of the case.

Mr. Sarma, learned Additional Public Prosecutor, Assam from the case diary submits that the petitioner is the owner and driver of said Bolero Pick-up vehicle that was seized by police along with 7 Nos. of cows. Mr. Sarma, learned Additional Public Prosecutor, Assam also submits that the petitioner admitted before the Investigating Officer of the case that those cows were stolen.

It is stated by Mr. Sarma, learned Additional Public Prosecutor, Assam that the petitioner is co-operating with the investigation of the case.

Considering the fact that the said Bolero Pick-up vehicle of the petitioner as well as cows were seized by police and the statement of the petitioner was recorded under Section 161CrPC by the concerned Investigating Officer of the case and that he is cooperating with the investigation of the case, the Court is of the view that custodial interrogation of the petitioner is not warranted to investigate said Golaghat P.S. Case No. 146/2023. As such, this pre-arrest bail application of the petitioner, named above, in said Golaghat P.S. Case is accepted.

The petitioner, namely, **Nakibur Rahman** is already on interim bail in said Golaghat P.S. Case No. 146/2023 granted to him earlier on 17.05.2023 and the same is hereby made absolute on the terms and conditions that the petitioner shall (i) appear before the Investigating Officer of Golaghat P.S. Case No. 146/2023, as and when he is required for necessary investigation of said Golaghat P.S. Case; (ii) not leave the territorial jurisdiction of the Golaghat 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