GAHC010122352023

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

Case No. : AB/1872/2023

MD HAREJ ALI
S/O HARJAT ALI
VILL- NO. 2 ISLAMPUR
P.S. LALUK
DIST. LAKHIMPUR
ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP
ASSAM

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

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

01.09.2023

Heard Mr. S.U. Ahmed, learned counsel for the applicant and also heard Mr. M.P. Goswami, learned Additional Public Prosecutor, Assam, appearing for the State

respondent.

2. Apprehending arrest in connection with Laluk P.S. Case No.82/2023, under Section 379 IPC read with Section 11(1)(d) of the Prevention of Cruelty to Animals Act, 1960 read with Section 13(1) of the Assam Cattle Preservation Act, 2021, this application under Section 438 Cr.P.C. is preferred by applicant, namely, Md. Harej Ali for grant of pre-arrest bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of one FIR lodged by S.I. Rosheswar Dutta of Laluk P.S. on 02.05.2023. The essence of allegation made in the FIR dated 02.05.2023 is that acting on a tip off he along with his staff apprehended 3(three) vehicles, bearing Registration Nos.AS-07-BC-5534 with 15 nos. of cattle, AS-07-AC-8334 with 9 nos. of cattle and AS-07-C-5449 with 14 nos. of cattle and also found 2 nos. of cattle dead in the vehicle No.AS-07-BC-5534 and no person had come forward to claim the aforesaid cattle by producing any document.

4. Mr. Ahmed, learned counsel for the applicant submits that the applicant is the registered owner of the vehicle bearing Registration No.AS-07-C-5449, where 14 nos. of cattle were found and that he could not produce any document before this Court to substantiate that he is the registered owner of the aforesaid vehicle as the Registration Certificate was with the driver and the same has already been seized by police. Mr. Ahmed also submits that the applicant is on interim pre-arrest bail pursuant to the order of this Court dated 30.05.2023 and accordingly, he appeared before the I.O. and the I.O. also recorded his statement. Therefore, it is contended to make the interim order dated 30.05.2023 absolute, in the same terms and conditions.

5. On the other hand, Mr. M.P. Goswami, learned Additional Public Prosecutor has produced the case diary before this Court and submits that the I.O. has collected sufficient incriminating materials and also seized the cattle and the vehicle. However, Mr. Goswami submits that the applicant has appeared before the I.O. and he has been extending cooperation with the investigation.

6. Having heard the submission of learned Advocates of both sides, I have gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Goswami, learned Additional P.P.

7. It appears from the case diary that pursuant to the order dated 30.05.2023 the

applicant had appeared before the I.O. and his statement is recorded and he has been cooperating with the investigating agency. Further, it appears from the case diary that material part of investigation is almost over and as such, custodial interrogation of the applicant seems to be not warranted here in this case and accordingly, this Court is inclined to make the interim order dated 30.05.2023 absolute, in the same terms and conditions.

8. In terms of above, this anticipatory bail application stands disposed of.

9. Case diary be returned.

Sd/- *Robin Phukan*
JUDGE

Comparing Assistant