

GAHC010119402023



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

Case No. : AB/1951/2023

RASHIDUL HOQUE
S/O- ABU NASAR WAHID, R/O- VILL- RUPOHIHAT, P.S. KATH PARA, P.O.
KATH PARA, NEAR NAGAON H.S SCHOOL, DIST.- NAGAON, ASSAM, PIN-
782120

VERSUS

THE STATE OF ASSAM
REP. BY P.P., ASSAM

Advocate for the Petitioner : MR A DEKA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

05.06.2023

Heard Mr. S. Dewri, learned counsel appearing for the petitioner. Also heard Mr. B. Sarma, learned Addl. Public Prosecutor, Assam appearing for the State respondent.

This petition under Section 438 Cr.P.C., is filed for granting the privilege of

pre-arrest bail to the petitioner, namely **Rashidul Hoque** apprehending arrest in connection with **Bihpuria P.S. Case No.26/2023** u/s **379/279/427/338** of the IPC read with Section **13(1)** of the Assam Cattle Preservation Act, 2021 read with Section **11(a)** of the Prevention of Cruelty to Animal Act.

The FIR reveals the allegation that on 06.02.2023, at around 8.30 p.m., a Baleno vehicle bearing registration No.AS 12 AD 3376, which was carrying 5 numbers of cattle in cruel manner from Lakhimpur towards Nagaon via NH-15 and driving in a rash and negligent manner, at Tarajuli, it dashed against the vehicle of the informant's son and a scooty of one Khagen Chandra Borah. Because of the accident, the informant's son had to be admitted in hospital.

Mr. S. Dewri, learned counsel appearing for the petitioner, submits that the petitioner is the registered owner of the vehicle bearing registration No. AS 12 AD 3376 alleged to be involved in the offences narrated in the F.I.R. But, Mr. Dewri submits, the petitioner has already sold out the said vehicle to one Iman Hussain by way of a deed of agreement for sale vide Annexure-2 executed on 01.12.2021, but the ownership was not transferred and that the purchaser used the vehicle in the commission of the alleged offences without his knowledge.

Upon hearing the learned counsel for both sides and the averments made in the petition along with the documents annexed thereto, this Court is of the opinion that custodial interrogation of the petitioner in the interest of the ongoing investigation may not be warranted.

Accordingly, it is provided that in the event of arrest, the petitioner, named above, shall be released on pre-arrest bail, in connection with the above noted case on furnishing bail bond of **Rs.40,000/- (Rupees Forty Thousand) only** with one surety of like amount to the satisfaction of the arresting authority,

subject, of course, to the following conditions:

- (i) That the petitioner shall appear before the Investigating Officer within 7 days, failing which, on and from the 8th day this pre-arrest bail order shall have no force;
- (ii) That the 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 any police officer; and
- (iii) That the petitioner shall refrain from committing any similar offences in future of which he is suspected of commission.

This disposes of the anticipatory bail application.

JUDGE

Comparing Assistant