

GAHC010127702023



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

Case No. : AB/2081/2023

HAZRAT ALI
S/O- SIDDIQUE SK. @ SIDDIQUE FAKIR, R/O- VILL- KAZAIKATA PT.-V, P.S.
BILASIPARA, DIST.- DHUBRI, ASSAM

VERSUS

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

Advocate for the Petitioner : MR. M I HUSSAIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 08-12-2023

Heard Mr. M.I.Hussain, learned counsel for the applicant and also heard K. K. Parasar, learned Addl. P.P. for the State respondent.

Apprehending arrest in connection with Bilasipara P.S. Case No.204/2023, under Section 379/411 IPC, read with Section 13(1) of the Assam Cattle Preservation Act,

2021, read with Section 11(d) of the Prevention of Cruelty to the Animals Act, 1960, this application under Section 438 Cr.P.C. is preferred by the applicant, namely, Hazarat Ali, for grant of pre-arrest bail.

The above noted case has been registered on the basis of an FIR lodged by one Sahinur Islam, Head Constable, Nayahat Police Outpost, on 23.05.2023.

The essence of allegation made in the FIR, dated 23.05.2023, is that on 23.5.2023, at about 5:35 PM, while the informant, with three other staffs, were attending patrolling duty on the National Highway, then they have intercepted one Mahindra Bolero Vehicle, bearing registration No. AS-01-AU-5352 and on checking the vehicle they found two persons with 3 nos. of cow, which were suspected to be stolen.

Mr. Hussain, learned counsel for the applicant submits that the name of present applicant finds no mention in the FIR, but, he has been named by the co-accused that the cows, being carried in the aforesaid vehicle, belongs to the present applicant. Mr. Hussain further submits that the present applicant is not the owner of the cow being carried in the aforesaid vehicle on that day, and he is innocent and no way involved with the offence. Mr. Hussain further submits that this Court was pleased to extend interim protection to the applicant vide order dated 28.6.2023, and pursuant to said order he has been cooperating with the investigating agency and therefore, it is contended to make the interim order dated 28.6.2023, absolute, in the same terms and condition

On the other hand, Mr. K.K.Parasar, learned Addl. P.P. submits that though he was directed and also given the opportunity for producing the case diary before this Court, yet he could not produced the same, as the same was not sent to him despite several signal sent to the I.O.

Having heard the submission of learned Advocates of both sides, and also considering the nature of accusation and punishment prescribed for the same, and further considering the fact that this application was filed on 12.6.2023, and the learned Addl. P.P. was directed to produce the case diary before this Court on 13.6.2023 and failed

to produce the same, inspite of getting as many as six opportunities, this Court is inclined to dispose of the petition on the basis of materials available on the record. In view of the above, specially, considering the co-operation being extended to the investigating agency by the applicant, this Court is inclined to make the interim order dated 28.6.2023, absolute in the same terms and condition. In terms of the above this A.B stands disposed of. Case diary be returned.

JUDGE

Comparing Assistant