

GAHC010131112023



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

Case No. : AB/2148/2023

MOSTOFA SK AND ANR
S/O ABU SHAMA SK.
R/O VILL- KAIMATI
P.S. GOLAKGANJ
DIST. DHUBRI, ASSAM

2: FAJAR ALI @ LALON @ LALCHAND SK.
S/O MALEK SK.
R/O VILL- KAIMATI
P.S. GOLAKGANJ
DIST. DHUBRI
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. N UDDIN

Advocate for the Respondent : PP, ASSAM

BEFORE

HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

19.07.2023

Heard Mr. M. Islam, learned counsel for the petitioners. Also heard Mr. K.K. Das, learned Additional Public Prosecutor, appearing for the State of Assam.

This is an application under section 438 of the Code of Criminal Procedure, 1973 praying for grant of pre-arrest bail of the petitioners, namely, 1. Mostofa Sk and 2. Fajar Ali @ Lalon @ Lalchand Sk. in connection with Golakganj P.S. Case No. 157/2023 under section 13(1) of the Assam Cattle Preservation Act, 2021.

The allegation against the present accused is that on 13.03.2023, one Mohibul Islam Ahmed lodged an FIR before the In-Charge of Chotaguma Police Outpost, *inter-alia*, alleging that while the first informant was conducting night patrolling duty at Chotaguma area about 12.30 A.M., he got secret information through reliable sources that 5/6 numbers of cattle smugglers were illegally carrying 6/7 numbers of cattle from West Bengal side for transporting it to other country and tied the cattle in the bamboo grove of the back side of the house of Md. Mondal Ali and later on, during search operation 7 numbers of cattle were found tied in the bamoo grove of Md. Ali. Accordingly, the cattles were seized and send to Government pound.

Learned counsel for the petitioners submits that the petitioners are daily wage labourers and they were falsely implicated in this case.

On the other hand, learned Additional Public Prosecutor submits that case diary which was called for has arrived and on perusal of the case diary, there are incriminating materials against the present petitioners given by other co-

accused as well as other independent witnesses.

Learned Additional Public Prosecutor also submits that otherwise the case has fairly progressed.

Considering the submissions made by learned counsel for both the sides as well as the materials available in the case diary, the present petitioners namely, 1. Mostofa Sk and 2. Fajar Ali @ Lalon @ Lalchand Sk. are hereby directed to surrender before the Investigating Officer of Golakganj P.S. Case No. 157/2023 within a period of 10(ten) days from the date of this order and shall co-operate with the Investigating Officer of the said case. If they do so within the stipulated period of time, in the event of their arrest in connection with Golakganj P.S. Case No. 157/2023, they shall be allowed to go on bail of Rs. 20,000/- each with a suitable surety of like amount to the satisfaction of the arresting authority with the condition that (i) they shall co-operate with the Investigating Officer of Golakganj P.S. Case No. 157/2023, (ii) they 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 or her from disclosing such facts to Court or to any police officer or tamper with the evidence. They shall not, in any manner, try to overawe or influence or intimidate the prosecution witness and (iii) while remaining on bail they shall not indulge in any similar offence to that with which they are charged in the present case.

With the above observation, this anticipatory bail application is hereby disposed of.

JUDGE

Comparing Assistant