

GAHC010146232023



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

Case No. : AB/2338/2023

MD. MUKSIDUL ISLAM
S/O IMAM HUSSAIN
R/O VILL- BRAHMA BEEL,
SAMAGURI, P.S. SAMAGURI
DIST. NAGAON, ASSAM
PIN-782138

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, GOVT. OF ASSAM

Advocate for the Petitioner : MR A DEKA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 30.06.2023

- 1.** Heard Mr. A. Deka, learned counsel for the petitioner. Also heard Ms. S. H. Bora, learned Additional Public Prosecutor for the State.
- 2.** This is an application under Section 438 of the Code of Criminal Procedure, 1973 filed by the petitioner, namely, *Md. Muksidul Islam*, who is apprehending

arrest in connection with Bokakhat P.S. Case No. 38/2023 under section 379/411 of the IPC read with section 13(I) of the Assam Cattle Preservation Act and read with section 11(1)(d) of the Prevention of Cruelty to Animals Act, 1960.

3. The facts relevant for consideration of present bail is that on 11.04.2023 one Lalit Dowari, Head Constable, lodged an FIR before the Officer-in-Charge of Bokakhat Police Station, *inter alia*, alleging that, on 11.04.2023, at about 5.00 AM, when the first informant was doing patrolling duty, at Latahbari, near National Highway No. 37, they found a Mahendra TUV Vehicle bearing Registration No. AS-22-E-6131 coming through the National Highway No. 37 when the Police personnel gave signal for stopping the said vehicle, the driver did not stop, however, after a distance finding the Police barricading, the driver stopped the vehicle and fled away leaving the vehicle at the place. On search of the said vehicle, three numbers of cattle were found tying inside the said vehicle. Suspecting the said cattle to be stolen, the said FIR was lodged. On receipt of the FIR, Bokakhat P.S. Case No. 38/2023 was registered.

4. The learned counsel for the petitioner submits that the petitioner is the owner of the vehicle which is involved in the incident. It is also submitted that he is unaware of the fact that why the driver did not stop the said vehicle, when the signal to do so was given by the Police.

5. The learned counsel for the petitioner has also submitted that the cattles which were carried in the said vehicle were purchased by one Abbu Hanif from one Dulal Das in the weekly Animal Market at Bihora, Bokakhat and in support of his submission, the learned counsel has also produced the receipts issued by Bihora Weekly Animal Market in respect of three cattle. The learned counsel also submits that after registration of the said case, the Police is searching him and,

as such, the petitioner is apprehending his arrest. It is also submitted that the petitioner is a permanent resident of Village Brahma Beel, Samaguri Police Station under Nagaon District which is ready to cooperate with the Investigating Officer.

6. I have heard the learned Additional Public Prosecutor for the State.

7. Considering the materials on record and submissions made by learned counsel for the petitioner, the petitioner is directed to surrender before the Investigating Officer of Bokakhat P.S. Case No. 38/2023 within a period of 10(ten) days from the date of this order and cooperate with the investigation of the said case, if he does so within the stipulated period of time, in the event of his arrest in connection with Bokakhat P.S. Case No. 38/2023, he shall be allowed to go on bail of Rs.20,000/- (Rupees Twenty Thousand) with one surety of like amount to the satisfaction of the arresting authority.

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

JUDGE

Comparing Assistant