

GAHC010147842023



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

Case No. : Bail Appln./2344/2023

IBINSTAR JYRWA AND 2 ORS
S/O PDIANGLUT JYRWA
R/O NONGSPUNG
P.S. SOHIONG
DIST. EAST KHASI HILLS, MEGHALAYA.

2: SRI BENDING THONGNI
S/O SEREK SANGIANG
R/O MAIRANG
P.S. MAIRANG
DIST. EAST KHASI HILL
MEGHALAYA.

3: SRI GURSHARAN SINGH
S/O MANGAL SINGH
R/O RAMPUR
P.S. MERWAL
DIST. TARANTARAN
PUNJAB

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. C K NATH

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR**

ORDER

26.07.2023

Heard Mr. S. Munir, learned counsel appearing for the accused petitioners as well as Mr. B. Sarma, learned Addl. P.P., Assam appearing for the State respondent.

By this petition under Section 439 Cr.P.C., the accused-petitioners, namely **1) Ibinstar Jyrwa 2) Bending Thongni and 3) Gursharan Singh** have prayed for grant of bail in connection with **Sonapur P.S. Case No.120/2023** under Sections **379/411/34** of the IPC read with Section **11(a)(b)(d)** of the Prevention of Cruelty to Animals Act read with Section **13(1)** of the Assam Cattle Preservation Act.

The case diary, as called for, is placed before the Court.

Mr. S. Munir, learned counsel appearing for the accused petitioners, submits that the accused petitioners are languishing in jail custody for 30 days despite being absolutely innocent. Mr. Munir further submits that the accused petitioners were driver and handyman of the trucks whereon the cattle were transported. According to Mr. Munir, the owner of the trucks asked them to transport the cattle showing purchase documents of the cattle. It has been submitted that the offences under Sections 379/411/34 of the IPC are absent in the case and those cattle were not transported for slaughtering purpose and as such, the offence under Section 13(1) of the Cattle Preservation Act is not attracted in the case. On the other hand, Mr. Munir submits that the offence under Section 11(a)(b)(d) of the Prevention of Cruelty to Animal Act is bailable.

Per contra, Mr. B. Sarma, learned Addl. Public Prosecutor, submits that out of the 25 numbers of cattle seized from the vehicle bearing registration No. AS-25FC-3214 19 cattle were found dead. Mr. Sarma further submits that the medical report on the 19

numbers of dead cattle shows that their cause of death was suffocation during the time of transportation.

The case relates to recovery and seizure of 25 nos. of cattle out of which 19 cattle were dead from a vehicle bearing registration No. AS-25FC-3214 on 25.06.2023 and recovery and seizure of 21 nos. of cattle from another vehicle bearing registration No. NL-02-1491.

It is noticed that the accused petitioners have been in judicial custody since 26.06.2023, that is, for 31 days.

On scrutiny of the case diary, it is found that the submission of the learned Addl. Public Prosecutor is correct.

The accused petitioners were drivers and handyman of the seized trucks and they transported the cattle without any valid documents in an extremely cruel manner as a result of which 19(nineteen) numbers of cattle died due to suffocation during transportation from Tinsukia side to Guwahati side. They even withheld disclosure of the name(s) of the owner of the cattle. The investigation is presently at a critical stage and as such, if the liberty of bail is granted to the accused petitioners, the ongoing investigation is likely to be adversely affected.

Accordingly, the bail application of the accused petitioners stands rejected.

Return the case diary.

The bail application stands disposed of.

JUDGE

Comparing Assistant