

GAHC010150542023



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

Case No. : AB/2392/2023

AZADUL ISLAM @ AZADUL SHEIKH @ BHUTTU
S/O- MOHAMMED ALI,
R/O- VILL.- KHARIDA GOSSAIGAON, (MOWATARI),
P.S.- CHAPAR,
DIST.-DHUBRI, ASSAM.

VERSUS

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

Advocate for the Petitioner : MR. R GOSWAMI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

28.08.2023.

Heard Mr. R. Goswami, learned counsel for the applicant. Also heard Mr. P.S. Lahkar, learned Additional Public Prosecutor for the State respondent.

Apprehending arrest in connection with Chapar P.S. Case No.125/2023,

under Sections 13(1) of Assam Cattle Preservation Act, 2021, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by accused/applicant, namely, Azadul Islam @ Azadul Sheikh @ Bhuttu for grant of pre-arrest bail.

It is to be noted here that aforementioned case has been registered on the basis of one FIR lodged by S.I. Ghanakanta Deori of Chapar P.S. on 20.05.2023.

The essence of allegation made in the FIR is that the applicant was found keeping 4(four) cattle in his field, so as to transport the same to Bangladesh.

Mr. Goswami, learned counsel for the applicant submits that the case has been registered under Section 13 (1) of the Assam Cattle Preservation Act, but none of the ingredients of the aforesaid offence is made out from a bare perusal of the FIR and that the applicant is a local resident and that he is ready to co-operate with the Investigating Agency and therefore, it is contended to allow this petition.

On the other hand, Mr. Lahkar, learned Additional Public Prosecutor has vehemently opposed the petition and referring to the materials collected in the case diary Mr. Lahkar contended to dismiss this petition.

Having heard the submissions of learned advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Lahkar, learned Additional Public Prosecutor for the State respondent.

In view of the materials collected so far in the case diary and in view of the submissions so advised by Mr. Goswami, learned counsel for the applicant, custodial interrogation of the applicant seems to be not warranted here in this

case and accordingly, it is provided that in the event of arrest of the applicant, namely, Azadul Islam @ Azadul Sheikh @ Bhuttu, in connection with Chapar P.S. Case No.125/2023, under Sections 13(1) of Assam Cattle Preservation Act, 2021, he shall be enlarged on pre-arrest bail on executing a bond of Rs. 50,000/- (Rupees fifty thousand) only, with one surety of like amount to the satisfaction of the arresting authority.

The above privilege is, however, subject to the following conditions:

(i) that the applicant shall make himself available for interrogation by the Investigating Officer as and when required;

(ii) that the applicant 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 applicant shall not leave the jurisdiction of the learned Sub-Divisional Judicial Magistrate(M), Bilasipara, without prior permission.

Case diary be returned.

JUDGE

Comparing Assistant