

GAHC010173062023



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

Case No. : Bail Appln./2835/2023

HABIBUR ISLAM AND ANR
S/O LT. MANACHUR ALI
R/O VILL- NO. 2 BORGHULI
P.S. ULUANI
DIST.NAGAON, ASSAM

2: NUR MOHAMMAD
S/O WAIJ UDDIN
R/O VILL- NO. 2 BORGHULI
P.S. ULUANI
DIST.NAGAON
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MD B ISLAM

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

24.08.2023

Heard Mr. B. Islam, learned counsel for the accused and Mr. R.J.

Barua, learned Addl. P.P. for the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused/applicant, namely, **Habibur Islam and Nur Mohammad**, who has been languishing in jail hazot in connection with the **Basistha P.S. Case No. 399/2023**, under Sections 379/411/429/34 of the IPC read with section 13[1] of the Assam Cattle Preservation [Amendment] Act and read with Section 11[1][d] of the Prevention of Cruelty to Animals Act, for granting bail.

3. The said case has been registered on the basis of an FIR lodged by one SI Kapil Pathak, on 11.07.2023. The essence of allegations made in the FIR is that on 11.07.2023, they have intercepted one vehicle, bearing registration No. NL-02-K-3695 and apprehended 4 persons, namely, Habibur Rahman; Nur Mohammad; Ashikul Islam; and Faruk Abdullah with 42 nos. of cattle being carried in the vehicle without any documents.

4. Mr. Islam, learned counsel for the accused submits that the accused persons are driver and handyman of the vehicle and no way they are involved with the offence alleged in the FIR and they are ready to cooperate with the investigating agency, and therefore, Mr. Islam contended to allow the accused person to go on bail.

5. On the other hand Mr. Baura, learned Addl. P.P. submits that the IO has completed investigation in the meantime and submitted charge sheet before the learned court below, being charge sheet No. 303/2023, dated 20.08.2023, and as such, the accused persons may be directed to approach the learned court below for granting bail.

6. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record.

7. It appears that the accused persons are behind the bars for last 48 days, and since Charge-Sheet has already been submitted, after completion of investigation, there is no scope of hampering investigation or tampering the witnesses. Now, trial will start and the accused persons have to prepare his defence.

8. In view of above, further custodial detention of the accused seems to be unwarranted here in this case, and accordingly, it is provided that on furnishing a bond of Rs. 50,000/- only each, with one surety of like amount to the satisfaction of the learned CJM, Kamrup [M] at Guwahati the accused persons be enlarge on bail.

9. In terms of above this BA stands disposed of.

JUDGE

Comparing Assistant