

GAHC010177172023



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

Case No. : AB/2835/2023

MD. NIJAM UDDIN
S/O- JAYNAL ABEDIN, R/O- VILL- GARAIMARI, P.S. ULUANI, DIST.-
NAGAON (ASSAM)

VERSUS

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

Advocate for the Petitioner : MR. T CHUTIA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 28-08-2023

Heard Mr. T. Chutia, learned counsel for the applicant and also heard Mr. M.P.Goswami, learned Addl. P.P. for the State respondent.
Apprehending arrest in connection with Basistha P.S.Case No. 406/2023 u/s 120(B)/379 IPC R/W Section 11(1)(d) of the Prevention of Cruelty to Animals

Act, 1960 R/W Section 13(1)(16) of Assam Cattle Preservation Act, 2021, this application under Section 438 Cr.P.C, is preferred by the applicant, namely, Md. Nijam Uddin 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 SI Jisu Janakya Gogoi on 13.7.2023. The essence of allegation, made in the FIR dated 13.7.2023, is that the accused persons were caught red-handed while they were carrying 31 numbers of cattles in two vehicles without relevant documents.

Mr. Chutia submits that the petitioner is the owner of the Truck, bearing registration No.AS-12CC-1734, and he is no way involved with the offence alleged in the FIR and the driver and handymen of both the vehicle, as well as the owner of the cattle have already been enlarged on bail by this Court, vide order dated 25.8.2023, passed in BA No. 2675/2023 and custodial interrogation of the applicant may not be required in the investigation, and therefore, it is contended to allow the petition.

On the other hand, Mr. M. P. Goswami, learned Addl. P.P. has opposed the petition and producing the case diary before this Court, Mr.Goswami submits that the I.O. has collected sufficient materials in support of the allegation made in the FIR.

However, having gone through the case diary with the assistance of Mr. Goswami, and also considering the stage of investigation as well as the materials collected so far in the case diary and further considering the submission of learned Advocates of both sides, custodial interrogation of the applicant seems to be not warranted herein this case, And accordingly, this Court is inclined to allow this petition. It is provided that in the event of arrest of the applicant, in connection with Basistha P.S.Case No. 406/2023 u/s

120(B)/379 IPC R/W Section 11(1)(d) of the Prevention of Cruelty to Animals Act, 1960 R/W Section 13(1)(16) of Assam Cattle Preservation Act, 2021, he shall be released on pre-arrest bail on his executing a bond of Rs.50,000/ with one surety of like amount to the satisfaction of the arresting authority.

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

1. That the applicants shall make himself available for interrogation by the Investigating Officer as and when required;
2. 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
3. That the applicants shall not leave the jurisdiction of the learned CJM, Kamrup(M), without prior permission.

JUDGE

Comparing Assistant