

GAHC010178672023



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

Case No. : Bail Appln./2921/2023

MOJIBUR RAHMAN AND ANR
S/O LT. HABIBUR RAHMAN
R/O VILL-MUAMARI
P.S. SAMAGURI
DIST. NAGAON, ASSAM

2: ABDUL BAREK
S/O MD. MUNNAF ALI
R/O VILL- KUTHORI
P.S. JAKHALABANDHA
DIST. NAGAON
ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. T CHUTIA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

28.08.2023

Heard Mr. T. Chutia, learned counsel for the accused and Mr. R.J.

Barua, learned Additional Public Prosecutor for the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused/applicant, namely, **Mojibur Rahman and Abdul Barek**, who have been languishing in jail hazot in connection with the **Sonapur P.S. Case No. 142/2023**, under Sections 379/411/34 of the IPC read with Sections 13[1]/16 of the Assam Cattle Preservation Act and read with Section 11[a] [b][d] of the Prevention of Cruelty to Animal Act, for granting bail.

3. The aforementioned case has been registered on the basis of one FIR lodged by one UBC namely, Ananta Bordoloi, on 22.07.2023. The essence of allegations made in the FIR is that the accused persons have been found carrying 39 nos. of cattle in a Truck bearing registration No. AS-01-NC-8658, without any valid documents.

4. Mr. Chutia, learned counsel for the accused persons submits that the accused persons were arrested on 22.07.2023, and since then they have been languishing in jail hazoot for last 38 days. Mr. Chutia further submits that they are driver and handyman of the said Truck and they are not involved with the offence alleged in the FIR and one Sariful Islam is the owner of the cattle, which were being carried by their vehicle and that they are ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, Mr. Barua, learned Additional Public Prosecutor has produced the case diary before this Court and opposed the petition by contending that the IO has collected sufficient materials in support of the allegations made in the FIR.

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

the case diary with the assistance of Mr. Barua, learned Addl. P.P.

7. It is not in dispute that the accused persons were arrested on 22.07.2023, and since then they have been languishing in jail hazoot for last 38 days and that the IO has achieved substantial progress in the investigation of the case.

8. Considering the period of detention as well as the nature of accusation and the punishment prescribed for the same and also considering the submissions of learned Advocates for both sides, this Court is of considered opinion that further custodial detention of the accused seems to be not required in the interest of investigation.

9. 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 **Chief Judicial Magistrate, Kamrup [M] at Guwahati**, the accused persons, be enlarged on bail.

10. In terms of above, this bail application stands disposed of.

JUDGE

Comparing Assistant