

GAHC010178722023



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

Case No. : Bail Appln./2923/2023

ABDUL KALAM AND ANR
S/O MD. ABDUL RIFIKUL
R/O VILL- AMLAKHI
P.S. BATARDAVA
DIST. NAGAON, ASSAM

2: MERAJUL ISLAM
S/O HABIBUL RAHMAN
R/O VILL-MAGURMARI
P.S. RUPAHI
DIST. NAGAON
ASSA

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

23.08.2023

Heard Mr. T. Chutia, learned counsel for the accused and Ms. S.H. Bora, 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, namely, Abdul Kalam and Merajul Islam, who have been languishing in jail hazot in connection with the Khetri P.S. Case No. 117/2023, under Sections 379/411/34 of the IPC read with Section 11 of the Prevention of Cruelty to Animal Act and read with Sections 7/13 of the Assam Cattle Preservation Act, for granting bail.

3. The aforementioned case has been registered on the basis of one FIR lodged by one Nabajyoti Bora, on 17.07.2023. The essence of allegations against the accused persons is that they have illegally carried cattle in a Truck, bearing registration No. AS-01-FC-6301 and also in another vehicle bearing registration No. BR-53-G-5103, without any documents.

4. Mr. Chutia, learned counsel for the accused submits that accused Abdul Kalam is the driver and Merajul Islam is the handyman of the Truck bearing registration No. AS-01-FC-6301. Mr. Chutia further submits that this Court, vide order dated 21.08.2023, in AB No. 2852/2023, has already granted interim protection to the registered owner of the vehicle as well as to the owner of the seized cattle. Mr. Chutia also submits that the present accused persons have been languishing in jail hazoot for last 37 days and their custodial detention may not be required in the interest of investigation and therefore, it is contended to enlarge the present accused persons on bail.

5. On the other hand, Ms. Bora, learned Additional Public Prosecutor, has opposed the petition by contending that the present accused persons have been arrested at the time of intercepting the aforesaid Truck bearing registration No. AS-01-FC-6301, with the cattle.

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

appears that the accused persons were arrested on 17.07.2023 and since then they have been languishing in the jail hajoot for last 37 days.

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

8. Accordingly, it is provided that on furnishing a bond of Rs. 50,000/- (Rupees fifty thousand) only each, with one surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup [M] at Guwahati, the present accused persons be enlarged on bail.

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

JUDGE

Comparing Assistant