

GAHC010180642023



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

**Case No. : AB/2850/2023**

JOHIRUL ISLAM @ JOHIRUL ALI AKAND  
S/O LT. JOBBER ALI AKAND VIL. GERAMARI PT VI P.S. GAURIPUR P.O.  
SOUTH GERAMARI DIST. DHUBRI ASSAM PIN 783331

VERSUS

THE STATE OF ASSAM  
REP. BY THE PP, ASSAM

**Advocate for the Petitioner** : MR. T SK  
**Advocate for the Respondent** : PP, ASSAM

**BEFORE**  
**HONOURABLE MR. JUSTICE ROBIN PHUKAN**  
**ORDER**

**27.09.2023**

Heard Mr. I. Alam, learned counsel for the applicant and Mr. P. Borthakur, learned Additional Public Prosecutor for the State respondent.

**2.** Apprehending arrest in connection with **Gauripur P.S. Case No. 249/2023**, under Sections 379/411/201/34 of the IPC read with Section 13[1] of the Assam Cattle Preservation Act, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicant namely, **Johirul Islam @ Johirul Ali Akand** for grant of pre-arrest bail.

**3.** The said case has been registered on the basis of one F.I.R., lodged by Mahada Bagchi, on 23.06.2023. The essence of allegations made in the FIR is that acting on tip off

about keeping huge stock of cattle in the house of Jahirul islam of Geramari Part VI, the informant with staff had searched and apprehended two persons namely, Mahabat Ali and Hafijur Ali Akond, who happens to be the brother of Jahirul Ali Akand and recovered seven cattle and seized the same.

4. Mr. Alam, learned counsel for the applicant submits that the cattle were recovered from the house of Mahabat Ali and Hafijur Ali Akond, not from the house of the applicant and that both of them have been arrested and released on bail and that he is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, Mr. Borthakur, learned Additional Public Prosecutor, has produced the case diary before this court and submits that the applicant is the prime accused of the case and the IO has collected sufficient materials against him. Mr. Borthakur further submits that the IO has examined some witnesses and seized the cattle and therefore, it is contended to dismiss the petition.

6. Having heard the submissions of learned Advocates of both sides, I have carefully perused the petition as well as the documents placed on the record and also perused the case diary with the assistance of learned Additional Public Prosecutor.

7. It appears that the IO has achieved substantial progress in the investigation and in view of the materials collected so far in the case diary, custodial interrogation of the applicant seems to be unwarranted, in the interest of investigation. Further, it appears that the co-accused have already been arrested and enlarged on bail.

8. Accordingly, it is provided that in the event of arrest of the applicant, in connection with **Gauripur P.S. Case No. 249/2023**, under Sections 379/411/201/34 of the IPC read with Section 13[1] of the Assam Cattle Preservation Act, he shall be enlarged on pre-arrest bail on executing a bond of Rs. 50,000/- only with one surety of like amount to the satisfaction of the arresting authority.

9. 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 **CJM, Dhubri**, without prior permission.

**10.** In terms of above, this AB stands disposed of.

**11.** The case diary be returned.

**JUDGE**

**omparing Assistant**