

GAHC010181292023



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

Case No. : Bail Appln./2941/2023

MD. ABJALUR RAHMAN AND ANR
S/O SHAHAMMOD ALI
R/O PUB- LARIMUKH
P.S. RUPAHIHAT ,DIST. NAGAON, ASSAM

2: MD. ABDUL MANNAN
SO JAYNAL ABDIN
R/O JIYOMARI ,P.S. RUPAHIHAT
DIST. NAGAON, ASSA

VERSUS

THE STATE OF ASSAM ,REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR S M ABDULLAH P
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 31-08-2023

Heard Mr. S. M. Abdullah, P, learned counsel for the accused petitioner and also heard Mr. R. J. Barua, learned Addl. P.P. for the State respondent.

This application under Section 439 Cr.P.C is preferred by the accused, namely, 1. Md Abjalur Rahman and 2. Md Abdul Mannan who have been

languishing in jail hazot in connection with Khetri P.S.Case No. 136/2023, u/s 379/411/34 IPC R/W Section 11 of Prevention of Cruelty to Animal Act and R/W Section 7/13 of the Assam Cattle Preservation Act, 2021.

It is to be noted herein that Khetri P.S. Case No.136/2023, u/s 379/411/34 IPC R/W Section 11 of Prevention of Cruelty to Animal Act and R/W Section 7/13 of the Assam Cattle Preservation Act, 2021 has been registered on the basis of an FIR lodged by one Saurav Saha on 7.8.2023.

The essence of allegation made in the FIR is that on 7.8.2023 the informant, alongwith staff apprehended one Bolero pick up vehicle bearing registration No. AS-12 CC-2566, and apprehended one Afzalur Rahman and Abdul Mannan and found 14 nos of cattle carrying in the said vehicle without any documents. Another pick up vehicle bearing registration No. AS 02 OC 1528, carrying 14 nos, of cattle in the said vehicle, was also apprehended. But the driver and handyman of the said vehicle fled away.

Mr. Abdulla learned counsel for the accused petitioner submits that the present petitioners are driver and handyman of the vehicle bearing registration No.AS-12-CC-2566 and they have carried the cattle in their vehicle, on being asked and loaded by one person and that they are ready to cooperate with the investigating agency and therefore, further custodial detention may not be required, and therefore, it is contended to allow the petition.

On the other hand, Mr. S. J. Baruah, learned Addl. P.P. has produced the case diary before this court and submits that the I.O has achieved substantial progress in the investigation and as many as five witnesses have been examined in this case and the vehicle and cattles have already been seized by the I.O in this case.

Having heard the submission of learned Advocate of both sides, I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Barua, learned Addl. P.P.

It appears that the accused persons were arrested on 7.8.2023, and since then, they are languishing in jail hazot for last 25 days. It also appears that the I.O. has achieved substantial progress in the investigation and considering the period of detention and also the progress of investigation, their further custodial detention seems to be not warranted in this case and accordingly, this court is inclined to allow this petition.

It is provided that on furnishing a bond of Rs.50,000/- each with one surety of like amount to the satisfaction of the Chief Judicial magistrate, Kamrup(M), both the accused be enlarged on bail.

Case diary be returned.

JUDGE

Comparing Assistant