

GAHC010181662023



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

Case No. : AB/2931/2023

ABDUL KHALEK
S/O LATE ASHAN ULLAH
@ ASHAN ALI
R/O BHASANIPARA PART-I,
P.O. JOYPUR BAZAR
P.S. GOALPARA RPS
DIST. GOALPARA, ASSAM
PIN-783129

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. K I MAZUMDER

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

01.09.2023

Heard Mr. K.I. Mazumder, learned counsel for the applicant and Ms. S.H. Bora, learned Additional Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with **Chapar P.S. Case No.**

152/2023, under 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, **Abdul Khalek** for grant of pre-arrest bail.

3. The said case has been registered on the basis of one F.I.R., lodged by SI Habibur Rahman Sarkar, on 11.07.2023, to the effect that on the same day at about 7.30 pm, he intercepted one machine boat at Champabati river, while one Shaha Alom was trying to smuggle 4 nos. of cattle to another State and on being asked he could not produce any documents and the boat man on seeing police, fled away from the scene.

4. Mr. Mazumder, learned counsel for the applicant submits that the applicant is the owner of the machine boat and he was not aware that the apprehended person, had loaded the cattle in his boat, without relevant documents and that the applicant is innocent and his custodial interrogation may not be required in the interest of investigation 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, Ms. Bora, learned Additional Public Prosecutor, by producing the case diary before this Court, submits that the IO has achieved substantial progress in the investigation and the boat along with the cattle have already been seized by the police preparing seizure list and the owner of the cattle has also been arrested and forwarded to the court.

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 Ms. Bora, learned Addl. P.P.

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.

8. Accordingly, it is provided that in the event of arrest of the applicant, in connection with **Chapar P.S. Case No. 152/2023**, under 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 SDJM [M], Bilasipara, without prior permission.

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

11. The case diary be returned.

JUDGE

Comparing Assistant