

GAHC010181802023



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

Case No. : AB/2872/2023

NURUL ISLAM
S/O ABUL KALAM
R/O VILL- CHAKUMAKU
P.S. JAGIROAD,
DIST. MORIGAON, ASSAM
PRESENTLY RESIDING AT SIJUBARI MAZID ROAD, HATIGAON CHARIALI,
GUWAHATI-38, P.O. AND P.S. HATIGAON, DIST. KAMRUP (M), ASSAM, PIN-
781038

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR M H AHMED
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 28-08-2023

Heard Mr. M.H.Ahmed, learned counsel for the applicant and also heard Mr.
P.S.Lahkar, learned Addl. P.P. for the State respondent.

Apprehending arrest in connection with Sonapur P.S.Case No. 129/2023

(G.R.Case No. 4818/2023) u/s 379/411/34 IPC R/W Section 11(a)(b)(d) of Prevention of Cruelty to Animals Act, 1960 R/W Section 13(1) of Assam Cattle Preservation Act, 2021, this application under Section 438 Cr.P.C, is preferred by the applicant, namely, Nurul Islam for grant of pre-arrest bail.

It is to be noted here that aforementioned case has been registered on the basis of one FIR lodged by one Hemanta Kalita on 6.7.2023.

The essence of allegation, made in the FIR dated 6.7.2023, is that on 6.7.2023, at about 11-30 AM ,the informant has intercepted one truck bearing registration No. AS-01-NC-7286 with 42 nos of cattle being carried illegally without any document.

Mr Ahmed learned counsel for the applicant submits that the applicant is the registered owner of the truck and he is no way involved with the offence and he is ready to cooperate with the Investigating agency and therefore it is contended to allow this petition.

On the other hand, Mr..P. S.Lahkar, learned Addl. P.P. has produced the case diary before this Court and vehemently opposed the petition on the ground that custodial interrogation of the applicant is required in the interest of investigation.

However, having gone through the materials collected so far in the case diary, this Court is left unimpressed by the submission of Mr.Lahkar that custodial interrogation of the applicant is required in the interest of investigation.

It appears that the materials collected so far in the case diary are inadequate to show complicity of the applicant with the offence alleged in the FIR.

Under the aforementioned facts and circumstances, this Court is inclined to allow this petition. It is provided that in the event of arrest of the applicant, in connection with Sonapur P.S.Case No. 129/2023 (G.R.Case No. 4818/2023) u/s

379/411/34 IPC R/W Section 11(a)(b)(d) of Prevention of Cruelty to Animals Act,1960 R/W Section 13(1) of Assam Cattle Preservation Act, 2021, he shall be released on pre-arrest bail on his executing a bond of Rs.50,000/ with one surety of like amount to the satisfaction of the arresting authority.

The above privilege is, however, subject to the following conditions:

1. That the applicants shall make himself available for interrogation by the Investigating Officer as and when required;
2. 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
3. That the applicants shall not leave the jurisdiction of the learned CJM, Kamrup(M) without prior permission.

JUDGE

Comparing Assistant