

GAHC010182192023



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

Case No. : AB/2909/2023

MANTU DUTTA AND ANR.
S/O HIREN DUTTA,
VILL.- MATIKHULA, P.S.- DHEMAJI, DIST.- DHEMAJI, ASSAM.

2: BAHARUL ISLAM
S/O SULEMAN ALI

VILL.- THENSALI PART
P.S.- MIKIRBHETA
DIST.- MORIGAON
ASSAM

VERSUS

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

Advocate for the Petitioner : MR. T CHUTIA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER

Date : 07.09.2023

Heard Mr. T. Chutia, learned counsel for the petitioners. Also heard Mr. B. Sharma, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 438 of the code of Criminal Procedure, 1973, praying for grant of pre-arrest bail to the accused/petitioners, who are apprehending arrest in connection with Khetri P.S. Case no. 107/2023, under Sections 379/411/34 of the Indian Penal Code *read with* Section 11 of the Prevention of Cruelty to Animal Act, 1960, *read with* Section 7/13 of Assam Cattle Preservation Act, 2021.

The Case Diary has been received and I have perused the same.

It is submitted by the learned counsel for the petitioners, Mr. Chutia, that the petitioner No. 1 is the owner of the seized cattle, which were purchased by him from Silapathar Cattle Market. But, at the time of intercepting the vehicle, the receipts for purchase of the cattle could not be produced before the I.O. as those were kept inside the vehicle. Further it is submitted that the accused petitioner No. 2 is the owner of the said vehicle and he has all the relevant

documents to prove the ownership of the vehicle. He further submitted that the accused/petitioners are innocent and no way involved in the alleged offence and they are ready to co-operate with the I.O. in the investigation of this case if they are granted with the privilege of pre-arrest bail. It is further submitted that on the last date, i.e. on 01.09.2023, the receipt of purchasing the seized cattle were also directed to be produced before this Court by the prosecution along with the Case Diary.

In this context, the learned Additional Public Prosecutor, Mr. Sharma, has submitted that as per the direction of this Court, the I.O. has already produced the cattle purchase receipts wherefrom it is seen that the cattle were purchased from Silapathar Cattle Market. However, it is submitted that there are materials available in the Case Diary which reveals that the cattle were brought in the vehicle in a very cruel manner and from the statement of the driver of the vehicle, it reveals that he on earlier occasion also carried the cattle in the manner he has carried the cattle.

After considering the submissions of learned counsels of both sides and also considering the materials available in the Case Diary as well as the receipts of purchasing of cattle etc., I find that custodial interrogation of the present accused/ petitioners are not necessary in this case and therefore, I find it a fit case to extend the privilege of pre-arrest bail to the accused/petitioners.

Accordingly, it is provided that in the event of arrest of the accused/petitioners, namely, (i) Mantu Dutta & (ii) Baharul Islam, in connection with Khetri P.S. Case no. 107/2023, under Sections 379/411/34 of the Indian Penal Code *read with* Section 11 of the Prevention of Cruelty to Animal Act, 1960, *read with* Section 7/13 of Assam Cattle Preservation Act, 2021, they shall be enlarged on pre-arrest bail on their executing a bond of Rs. 20,000/- (Rupees twenty thousand) only each with one surety of like amount to the satisfaction of the arresting authority, subject to the following conditions:

- (i) that the petitioners shall appear before the Investigating Officer of the case within a period of 10 days from today to enable recording of their statement;
- (ii) that the petitioners shall fully co-operate with the investigation of the case and shall appear before the Investigating Officer as and when required in connection with the investigation of the aforesaid P.S. Case; and
- (iii) that the petitioners 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.

The anticipatory bail application stands disposed of in terms above.

The Case Diary be sent back.

JUDGE

Comparing Assistant