

GAHC010184052023



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

Case No. : AB/2910/2023

ROFIQUL ISLAM
S/O ABDUL KADER,
VILL.- KHOPATIA PT- 1,
P.S.- SUKCHAR, DIST.- SOUTH SALMAR-MANKACHAR, ASSAM, PIN-
783128.

VERSUS

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

Advocate for the Petitioner : MR. L R MAZUMDER

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

14.09.2023

Heard Mr. A.Z. Ahmed, learned counsel for the applicant and Mr. K. Baishya, learned Addl. P.P. for the State respondent.

2. Apprehending arrest in connection with **Sukchar PS Case No. 185/2023**, under Sections 379/411/34 of the IPC read with Sections 13[1]/16 of the Assam Cattle Preservation Act, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicant, namely, **Rofiqul Islam** for

grant of pre-arrest bail.

3. The above noted case has been registered on the basis of an FIR lodged by S.I. Ramhet Singh Adhoc 'A' Coy 49 Bn BSF, Sukchar. The essence of allegation made in the FIR is that acting on a tip off, they have intercepted one EFC boat and apprehended one person namely, Jahangir Mollah on 17.7.2023 and recovered 33 nos. of buffalos and 4 nos. of cattle of worth Rs.7.29,500/- and during preliminary interrogation the apprehended person disclosed that the 37 nos of cattles were owned by one Rafiqul (Mahajan), and some other persons, namely, Monowar Hussain, Zakir, Saidul Mandal, Mazan, Taizuddin are also involved with the said offence and one Rafiqul, son of Sayed Ali and one Mainuddin were also involved with the offence as backward and forward link.

4. Mr. Ahmed learned counsel for the applicant submits that pursuant to the order of this court dated 23.08.2023, the applicant had appeared before the IO and his statement is recorded he has been co-operating with the Investigating Agency, and therefore, it is contended to make the interim order, dated 23.08.2023, absolute in the same terms and conditions.

5. On the other Mr. Baishya, learned Addl. P.P. by producing the case diary before this Court, has opposed the petition on the ground that the IO has collected sufficient incriminating materials against the applicant and he is one of the member of the gang, who are involved in international smuggling of cattle and that his custodial interrogation is very much necessary, in the interest of investigation and therefore, it is contended to dismiss the petition.

6. Having heard the submissions of learned Advocates 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 learned Additional Public Prosecutor.

7. It appears from the case diary that the IO has achieved substantial

progress in the investigation of the case and now it is pending for arrest of the co-accused persons.

8. Having regards to above and also having considered the submission of learned counsel for both the parties and considering the fact that the applicant has been cooperating with the investigating agency his custodial interrogation seems to be unwarranted here in this case, and therefore, this court is inclined to make the interim order dated **23.08.2023**, absolute in the same terms and condition.

9. In terms of above this AB stands disposed of.

10. The case diary be returned.

JUDGE

Comparing Assistant