

GAHC010189542023



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

Case No. : Bail Appln./3021/2023

BAHARUL ISLAM AND ANR
S/O MD. TAHER ALI
R/O VILL- 1 NO. BORGHULI
P.S. ULLANI
DIST. NAGAON, ASSAM

2: MD. BABUL HUSSAIN
S/OLT. MAINUDDIN
R/O VILL- GERUWA ATI
P.S. KHATOWAL
DIST. NAGAON
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. T CHUTIA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

Date : 29-08-2023

1. Heard Mr. T Chutia, learned counsel for the applicants and Mr. P Borthakur, learned Addl. PP, Assam appearing for the state

respondent.

2. This application under section 439 of the Code of Criminal Procedure, 1973 is preferred by accused, namely, **1. Md. Baharul Islam & 2. Md. Babul Hussain** who were arrested on 27.07.2023 connection with **Khetri PS Case No.128/2023** under sections **379/411/34 IPC** read with section 11 of Prevention of Cruelty to Animal Act 1960, read with sections 7/13 of Assam Cattle Preservation Act, 2021.

3. The petitioners were arrested on 27.07.2023 and they are behind the bars since then.

4. Learned counsel for the applicant submits that the applicant is innocent and he has been falsely implicated in this case. Investigation is almost over and statement of accused has thoroughly been interrogated by the investigating agency. There is no legal evidence against the present applicant to connect them with the alleged offence. The learned Counsel further submits that the applicant is in custody since 27.07.2023 and the conclusion of trial will take sufficient time. On the aforesaid grounds, prayer is made to release the applicant on bail.

5. Learned Additional Public prosecutor for the state has seriously opposed the application and prayed for its rejection.

6. Looking at the facts and circumstances of the case and on a perusal of the materials available on record and considering the fact that the present two petitioners are the driver and the handyman of the vehicles and the stolen cows have already been recovered and also considering the advance stage of investigation and period of

detention, this court without commenting anything on the merits of the case is of the opinion that no further custodial interrogation/detention is required. Accordingly, the present application is allowed.

7. It is directed that the applicants, above named, in connection with the aforementioned case be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- each (Rupees twenty five thousand only) with one solvent surety of the like amount to the satisfaction of the learned CJM, Kamrup (M), Guwahati with the following conditions:

I. The applicant shall appear before the officer in charge of the concerned PS within 10 (ten) days from today.

II. The applicant shall not leave the territorial jurisdiction of the aforesaid police station without prior written permission from its officer in charge;

III. The applicant shall not hamper with the investigation of the case and tamper with the evidence of the case;

IV. 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 them from disclosing such facts to the court or to any police officer.

8. In terms of the above, this bail application stands disposed of.

JUDGE