

GAHC010199772023



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

Case No. : Bail Appln./3139/2023

KHIRAJUL ISLAM
S/O KUDDUS ALI
R/O VILL- PANBARI
P.S. KOHORA
DIST. GOLAGHAT, ASSAM

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 ROBIN PHUKAN
ORDER

11.09.2023

Heard Mr. T. Chutia, learned counsel for the accused and Mr. P. Borthakur, learned Additional Public Prosecutor for the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused, namely, **Khirajul Islam**, who has been languishing in jail hazot in connection with the **Basistha P.S. Case No.**

331/2023, under Section 379/429 of the IPC read with Section 13[1] of the Assam Cattle Preservation Act and read with Section 11[1][d] of the Prevention of Cruelty to Animal Act, for granting bail.

3. The aforementioned case has been registered on the basis of one FIR lodged by SI Jisu Janakya Gogoi, on 11.06.2023. The essence of allegations made in the FIR is that on 11.06.2023, at about 5 am, acting on a tip off they have intercepted one 12 wheeler Truck and found 20 nos. of cattle, being carried in the aforesaid Truck, without any documents and apprehended the driver of Truck, Khirajul Islam.

4. Mr. Chutia, learned counsel for the accused submits that the accused was arrested on 11.06.2023, and since then he has been languishing in jail hazoot for last 92 days. Mr. Chutia further submits that the investigation of the case has already been completed and the IO has laid charge sheet before the learned court below on 14.07.2023, and thereafter the accused approached the learned court below to grant him bail, but the learned court below has rejected the same vide order dated 21.08.2023. Mr. Chutia also submits that the accused will face trial and appear before the learned court below on each and every date and therefore, it is contended to enlarge the present accused on bail.

5. On the other hand, Mr. Borthakur, learned Additional Public Prosecutor has fairly submits that the investigation of the case has already been completed and the charge sheet has submitted before the learned court below and the question remains to be seen is whether the accused will face the trial or not.

6. Having heard the submission of learned Advocates for both sides, I have carefully gone through the petition and the materials placed on record.

7. It is not in dispute that the accused was arrested on 11.06.2023, and since then he has been languishing in jail hazoot for last 92 days. Further it is not in dispute that after completion of investigation the IO has laid charge sheet before the learned court below and since the charge sheet has been submitted, the question of hampering the investigation or tempering the witnesses does not arise and now the trial will start and the accused has to prepare his defence. Besides, Mr. Chutia assured that the accused will face the trial and appear before the learned court before on each and every date.

8. Having considered above and also balancing the period of detention with that of the nature of accusation and the punishment prescribed for the same and also considering the submission of learned Advocates for both sides, this Court is of considered opinion that further custodial detention of the accused seems to be not required.

9. Accordingly, it is provided that on furnishing a bond of Rs. 50,000/- only, with one surety of like amount to the satisfaction of the learned **Additional Sessions Judge FTC No. 4, Kamrup [M] at Guwahati**, the accused be enlarged on bail.

10. In terms of above, this bail application stands disposed of.

JUDGE

Comparing Assistant