

GAHC010201202023



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

Case No. : AB/3124/2023

GULZAR HUSSAIN
S/O NUR MUHAMMAD
R/O VILL- GERUBAATI
P.O. RUPOHI
P.S. RUPOHIHAT
DIST.NAGAON, ASSAM
PIN-782125

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

25.09.2023

Heard Mr. D.M. Khan, learned counsel for the applicant and Ms. N. Das, learned Additional Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with **Khetri P.S. Case No. 148/2023**, under Sections 379/411/34 of the IPC read with Section 11 of the Prevention of Cruelty to Animal Act and read with Sections 7/13 of the Assam Cattle Preservation Act, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicant namely, **Gulzar Hussain** for grant of pre-arrest bail.

3. The said case has been registered on the basis of one F.I.R., lodged by UBC Kamal Bora of Khetri PS, on 24.08.2023. The essence of allegations made in the FIR is that on 24.08.2023, at about 6:15 am, they have intercepted five numbers of vehicle, bearing registration Nos. AS-02-CC-9525; AS-01-QC-5578; AS-02-DC-2026; AS-01-QC-7278; and AS-02-CC-3885, which were coming from Nagaon towards Guwahati, loaded with betel nut seedling and during search, they have found 53 numbers of cattle in the aforesaid vehicles and arrested 3 persons namely, Akiluj Zamal; Mubarak Ali; and Mustafijur Rahman.

4. Mr. Khan, learned counsel for the applicant submits that the applicant is the owner of an intercepted vehicle, bearing registration No. AS-02-CC-3885. Mr. Khan further submits that the applicant is innocent and he is no way involved with the offence alleged in the FIR and that he is ready to cooperate with the investigating agency, and therefore, it is contended to allow the petition.

5. On the other hand, Ms. Das, learned Additional Public Prosecutor, has produced the case diary before this court and fairly submits that in view of the materials collected so far in the case diary, the custodial interrogation of the applicant seems to be unwarranted, in the interest of investigation.

6. Having heard the submissions of learned Advocates of both sides, I

have carefully perused the petition as well as the documents placed on the record and also perused the case diary with the assistance of learned Additional Public Prosecutor.

7. In view of the materials collected so far in the case diary and also in view of the submission of learned counsel for both the parties, the custodial interrogation of the applicant seems to be unwarranted, in the interest of investigation.

8. Accordingly, it is provided that in the event of arrest of the applicant, in connection with **Khetri P.S. Case No. 148/2023**, under Sections 379/411/34 of the IPC read with Section 11 of the Prevention of Cruelty to Animal Act and read with Sections 7/13 of the Assam Cattle Preservation Act, he shall be enlarged on interim pre-arrest bail on his executing a bond of Rs. 50,000/- only, with one surety of like amount to the satisfaction of the arresting authority.

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

(i) that the applicant shall make **himself** available for interrogation by the Investigating Officer as and when required;

(ii) 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

(iii) that the applicant shall not leave the jurisdiction of the learned **CJM, Kamrup [M] at Guwahati**, without prior permission.

- 10.** In terms of above, this AB stands disposed of.
- 11.** The case diary be returned.

JUDGE

Comparing Assistant