

GAHC010202972023



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

Case No. : AB/3101/2023

SHAH NAWAZ ALAM
S/OLATE MAZIBUR RAHMAN
R/O VILL AND P.O. BAR MANIPUR
P.S. MIKIRBHETA
DIST. MARIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR M HOQUE
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

13.09.2023

Heard Mr. M. Hoque, learned counsel for the applicant and als heard Mr. K. Baishya, learned Additional Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with **Sonapur P.S. Case No. 125/2023**, under Sections 120[B]/379/411/34 of the IPC read with section 11[a][b][d] of the Prevention of Cruelty to Animal Act and read with section 13[1] of the Assam Cattle Preservation Act, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicant, namely, **Shah**

Nawaz Alam for grant of pre-arrest bail.

3. The said case has been registered on the basis of one F.I.R., lodged by one Rohit Singh, on 03.07.2023. The essence of allegations made in the FIR is that one Md. Gulzar Hussain and Md. Ijul Ali have illegally carried 36 nos. of cattle in a tanker, bearing registration No. AS-01-C-1655 and out of 36 nos. of cattle, 11 nos. of cattle have been found dead and they have carried the aforesaid cattle without any documents.

4. Mr. Ahmed, learned counsel for the applicant submits that the applicant is the owner of the tanker and that the applicant is innocent and no way involved with the offence alleged in FIR and without his knowledge the driver and handyman of the tanker carried the cattle in the tanker. Mr. Ahmed further submits that the applicant is ready to cooperate with the investigating agency, and therefore, Mr. Ahmed contended to allow the petition.

5. On the other hand, Mr. Borthakur, learned Additional Public Prosecutor, has produced the case diary before this court and submits that the IO has collected some materials in support of the allegation made in the FIR and that the investigation of the case has substantially been progressed and material part of the investigation is almost over.

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 Mr. Borthakur, learned Addl. P.P.

7. It appears that the applicant is the registered owner of the tanker. Further, it appears that the IO has achieved substantial progress in the

investigation and in view of the materials collected so far in the case diary 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 **Sonapur P.S. Case No. 125/2023**, under Sections 120[B]/379/411/34 of the IPC read with section 11[a][b][d] of the Prevention of Cruelty to Animal Act and read with section 13[1] of the Assam Cattle Preservation Act, he shall be enlarged on interim pre-arrest bail on 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