

GAHC010204592023



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

Case No. : AB/3153/2023

JOHIRUL ISLAM MONDAL AND 2 ORS
S/O MONTAZ ALI MONDAL
VILL- NILOKHIA PT. III
P.S. SUKCHAR
DIST. SOUTH SALMARA-MANKACHAR, ASSAM, PIN-783128

2: SAHIDUR RAHMAN ALI
S/O MONTAZ ALI MONDAL
VILL- NILOKHIA PT. III
P.S. SUKCHAR
DIST. SOUTH SALMARA-MANKACHAR
ASSAM
PIN-783128

3: TAJUDDIN SK. @ BABLU
S/O ABUL HUSSAIN
VILL- NILOKHIA PT. III
P.S. SUKCHAR
DIST. SOUTH SALMARA-MANKACHAR
ASSAM
PIN-78312

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. L R MAZUMDER

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER**

29.09.2023

Heard Mr. A.Z. Ahmed, learned counsel for the applicants and Mr. K.K. Parasar, learned Additional Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with **Sukchar P.S. Case No. 163/2023**, 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 applicants namely, **Johirul Islam Mondal; Sahidur Rahman Ali; and Tajuddin Sk @ Bablu** for grant of pre-arrest bail.

3. The said case has been registered on the basis of one F.I.R., lodged by Harish Ch. Panday, on 14.06.2023. The essence of allegations made in the FIR is that acting on a tip off the BSF Personnel of Unit – G Cell 49 Bn., intercepted one boat in the Brahmaputra river and recovered five numbers of cattle, of worth Rs. 1,46,500/-.

4. Mr. Ahmed, learned counsel for the applicants submits that owner of the boat is Johirul Islam Mandal; owner of the cattle is Tajuddin @ Bablu; and driver of the boat is Sahidur Rahman Ali. Mr. Ahmed further submits that the applicants are innocent and no way involved with the offence alleged in the FIR and that they are ready to cooperate with the investigating agency, and therefore, it is contended to allow the petition.

5. On the other hand, Mr. Parasar, learned Additional Public Prosecutor, has produced the case diary before this court and submits that the IO has collected sufficient materials against the applicants and that the IO has examined three witnesses, herein this case.

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. 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 applicants 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 **Sukchar P.S. Case No. 163/2023**, under Sections 379/411/34 of the IPC read with Sections 13[1]/16 of the Assam Cattle Preservation Act, they shall be enlarged on pre-arrest bail on executing a bond of Rs. 50,000/- only each, 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 themselves 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 them 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, South Salmara Mankachar**, without prior permission.

10. In terms of above, this AB stands disposed of.

11. The case diary be returned.

JUDGE

Comparing Assistant