

GAHC010206952023



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

Case No. : Bail Appln./3269/2023

MD ABUL KASEM AND ANR
S/O HABIBUR RAHMAN
VILL- PUTIKHAITY
P.S. RUPOHI
DIST. NAGAON, ASSAM

2: MD. AIJUL HOQUE
S/OMD. NURUL ISLAM
R/O TELIACHAPORITUP
P.S. RUPOHI
DIST. NAGAON
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, GOVT. OF ASSAM

Advocate for the Petitioner : MR A DEKA
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

29.09.2023

Heard Mr. A. Deka, learned counsel for the accused persons and also heard Mr. D. Das, learned Additional Public Prosecutor for the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure,

1973, is preferred by two accused persons namely, **Md. Abul Kasem and Md. Aijul Hoque**, who have been languishing in jail hazot since 29.08.2023, in connection with the **Sonapur P.S. Case No. 186/2023**, under Sections 120[B]/379/411 of the IPC read with Section 13[1] of the Assam Cattle Preservation Act and read with Section 11[a][b][d] of the Prevention of Cruelty to Animal Act, for granting bail.

3. The said case has been registered on the basis of one F.I.R., lodged by Hemanta Kalita, on 03.09.2023. The essence of allegations made in the FIR is that he along with his staff intercepted one Mahindra Bolero Pickup vehicle and apprehended two persons namely, Abul Kasem and Aijul Hoque carrying 14 numbers of cattle in the vehicle illegally without any valid documents.

4. Mr. Deka, learned counsel for the accused submits that the accused persons were arrested on 03.09.2023, and since then they are languishing in jail hazoot for last 27 days. Mr. Deka further submits that the accused persons are the driver and handyman of the aforesaid vehicle and they have some documents of purchasing the cattle, which were annexed with the petition, as Annexure – 4 series and that further custodial detention of the accused seems to be unwarranted here in this case and therefore it is contended to allow the petition.

5. On the other hand, Mr. Das, learned Additional Public Prosecutor has produced the case diary before this Court and submits that though the accused persons have submitted some documents, the same are yet to be verified and that the IO has examined some seizure witnesses only and therefore, it is contended to dismiss the petition.

6. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the Case Diary with the assistance of learned Additional Public

Prosecutor.

7. It appears that the accused persons have been arrested in this case on 03.09.2023, and since then, they have been languishing in jail hazoot for last 27 days. Further it appears from the case diary that the I.O. has achieved substantial progress in the investigation of the case and their further custodial detention seems to be unwarranted here in this case. And accordingly, it is provided that on his furnishing a bond of Rs. 50,000/- only, with one surety of like amount to the satisfaction of the learned **Chief Judicial Magistrate, Kamrup [M] at Guwahati**, the accused be enlarged on bail.

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

9. The case diary be returned.

JUDGE

Comparing Assistant