

GAHC010207872023



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

Case No. : AB/3164/2023

JAHAN UDDIN AND ANR
S/O LATE ASKER ALI
R/O VILL- TARANGAPUR PART-I, P.S. CHAPAR, DIST. DHUBRI, ASSAM

2: SHAIBUDDIN SHEIKH
S/O LATE ASKER ALI
R/O VILL- TARANGAPUR PART-I

P.S. CHAPAR
DIST. DHUBRI
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. R BORA

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

04.10.2023

Heard Mr. D. Gogoi, learned counsel for the applicants and also heard Mr. K.K.

Parasar, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. Apprehending arrest in connection with Chapar P.S. Case No.130/2023 under Section 13(1) of the Assam Cattle Preservation Act, 2021, this application under Section 438 Cr.P.C. is preferred by two applicants, namely, Jahan Uddin and Shaibuddin Sheikh, for grant of pre-arrest bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of one FIR lodged by SI Khanjan Jyoti Choudhury of Chapar P.S. on 06.06.2023. The essence of allegation made in the FIR dated 06.06.2023 is that acting on a tip off they have apprehended two persons, namely, Sujal Sheikh and Ushumuddin Sheikh, while they were smuggling 7 nos. of cattle at Betbari Part-I and one Jahan Uddin, one Saijuddin, one Baharul and one Monuwar Hussain managed to escape by taking the benefit of darkness.

4. Mr. Gogoi, learned counsel for the applicants submits that the applicant No.2 Shaibuddin Sheikh was not present at the place of occurrence and the applicant No.1 Jahan Uddin is his brother and the applicant No.1 was present at the place of occurrence and that they are ready to cooperate with the investigating agency and therefore, it is contended to allow this petition.

5. On the other hand, Mr. K.K. Parasar, learned Additional Public Prosecutor has produced the case diary before this Court and submits that the I.O. has collected some materials in support of the allegation made in the FIR. To a pointed query of this Court, Mr. Parasar submits that the I.O. has examined some witnesses here in this case.

6. Having heard the submission 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 Mr. Parasar, learned Additional P.P.

7. In view of the materials collected so far in the case diary and also in view of the nature of accusation and the punishment prescribed for the same, custodial interrogation of the applicants seems to be not warranted here in this case and therefore, this Court is inclined to allow this petition. It is provided that in the event of arrest of the applicants,

namely, Jahan Uddin and Shaibuddin Sheikh, in connection with Chapar P.S. Case No.130/2023 under Section 13(1) of the Assam Cattle Preservation Act, 2021, they shall be enlarged on pre-arrest bail on their executing a bail bond of ₹ 50,000/- each, with one surety of the like amount to the satisfaction of the arresting authority. The above privilege is, however, subject to the following conditions:-

- (i) The applicants shall make themselves available for interrogation by the Investigating Officer as and when required;
 - (ii) The applicants 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) The applicants shall not leave the jurisdiction of the learned S.D.J.M.(M), Bilasipara, without prior permission.
8. In terms of above, this anticipatory bail application stands disposed of.
9. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant