

GAHC010209272023



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

Case No. : Bail Appln./3317/2023

SHIRAJUL ISLAM AND ANR
S/O ABDUL FARAH, R/O- NO- 1 BORGHULI, P.S. - ULUONI, DIST- NAGAON,
ASSAM

2: ABDUL RAFIK
S/O - LATE ABDUR RAHMAN
R/O -NO.4 BURBANDHA
P.S. RUPAHIHAT
DIST- NAGAON
ASSAM

VERSUS

THE STATE OF ASSAM
REPERSENTED BY P.P ASSAM.

Advocate for the Petitioner : MR S M ABDULLAH P

Advocate for the Respondent :

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 29.09.2023

Heard Mr. S. M. Abdullah P., learned counsel for the petitioners. Also heard Mr. B. B. Gogoi, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 439 of the Code of the Criminal Procedure, 1973, praying for grant of bail to the accused/petitioners, who have been arrested in connection with Basistha P.S. Case No. 530/2023, under Section 379 of the Indian Penal Code *read with* Section 11(1)(d) of Prevention of Cruelty to Animal Act *read with* Section 13(1)/16 of the Assam Cattle Preservation Act, 2021.

The Case Diary has been received and I have perused the same.

It is submitted by the learned counsel for the petitioner that the both the accused/petitioners are in custody since 06.09.2023 and they are no way connected with the alleged offence. They are arrested in connection with this case only on suspicion as they are the driver and the handyman of the vehicle wherefrom the cattle were seized. But they are in custody since 06.09.2023 and thus, the I.O. got sufficient time to interrogate them keeping them in custody. It is further submitted that they are still ready and willing to co-operate with the further investigation of the case if they are enlarged on bail.

In this context, the learned Additional Public Prosecutor, Mr. Gogoi, has submitted that it is a fact that both the accused/ petitioners are the driver and handyman of the vehicle, but they could not produce any valid document regarding the purchase of the cattle and hence, there is a suspicion that the cattle might be a stolen one.

Considering the submissions made by the learned counsels for both sides, it is seen that both the petitioners are the driver and the handyman of the vehicle and thus, they might not be aware about the purchase of the cattle and it is also submitted by the learned counsel for the petitioner that they could not produce any documents as the documents are with the owner of the cattle as well as the owner of the vehicle. So, considering this aspect of the case and also considering the length of detention already undergone by the accused/petitioners, I find that further custodial interrogation of the accused/petitioners seems to be not necessary for the purpose of investigation.

Accordingly, it is provided that on furnishing a bond of Rs. 20,000/- (Rupees twenty thousand) only each with one surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup(M), Guwahati, the accused/petitioners, namely, (i) Shirajul Islam & (ii) Md. Abdul Rafik, be enlarged on bail, subject to the following conditions:

- (i) that the petitioners shall make themselves available for interrogation by the Investigating Officer as and when required;

- (ii) that the petitioners 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 petitioners shall not leave the jurisdiction of the learned Chief Judicial Magistrate, Kamrup(M), Guwahati, without prior permission.

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

The Case Diary be sent back.

JUDGE

Comparing Assistant