

GAHC010209352023



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

Case No. : Bail Appln./3289/2023

AJIM UDDIN @ AZIMUDDIN AND ANR
S/O MD. TAHER UDDIN
R/O VILL- 2 NO. BORGHULI, P.S. ULUANI, DIST. NAGAON, ASSAM

2: MD. IJAJUL ISLAM @ EZZAUL ISLAM
S/O JOYUDDIN
VILL- 2 NO. BORGHULI P.S. ULUANI
DIST. NAGAON
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR H R A CHOUDHURY
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 18-09-2023

Heard Mr. HRA Choudhury, learned Senior counsel assisted by Mr. M. Hossain, learned counsel for the applicant and also heard Ms. N. Das, learned Addl. P.P. for the State respondent.

This application u/s 439 Cr.P.C. preferred by the accused persons, namely, 1. Ajim Uddin @ Azimuddin and 2. Md. Ijajul Islam @ Ezzazul Islam, who are languishing in jail hazot in connection with Khetri P.S. Case No. 157/2023, u/s 379/ 411/34 IPC, r/w Section 7/2013 of

Assam Cattle Preservation (amendment) Act, 2021 r/w Section 11 of Preservation of Cuelty to Animals Act, 1960.

The above noted case has been registered on the basis of FIR lodged by one UBC Nabajyoti Barua on 5.9.2023.

The essence of allegation made in the aforesaid FIR dtd. 5.9.2023 is that on that day, they have apprehended one vehicle, bearing registration No.AS 12 CC 2844, which was coming from Nagaon towards Khetri side and on checking the vehicle, they recovered 7 nos of cattle being carried without any valid document and apprehended the driver and handyman of the vehicle namely, Ajimuddin and Md. Ijajul Islam.

Mr. HRA Choudhury, learned Senior Counsel submits that the accused persons are the owner of the seized 7 numbers of cattle and out of 7 nos., 4 numbers of cattles belongs to accused Ajimuddin and 3 nos. of cattle belongs to Ijajul Islam and that due to poverty they were unable to maintain the cattle and therefore, they decided to sale the same to some relatives at Hajo and thereafter, to purchase one power tiller so as to earn some money and on their way, they have been apprehended by the police at Khetri. Mr. Choudhury, learned Senior Counsel further submits that further custodial detention of the accused may not be required in the interest of investigation and therefore it is contended to allow this petition .

On the other hand, Ms. N. Das, learned Addl.P.P. has opposed the petition and submits that the case diary may be called for as the forwarding report dated 6.9.2023, indicates that the accused persons have failed to produce any document before the I.O. at the time of their arrest.

Having heard the submissions of learned Advocates of both sides, I have carefully gone the petition and documents placed on record and also perused the FIR dated 5.9.2023 and also the forwarding report dated 6.9.2023.

In view of categorical submission of Mr. HRA Choudhury, learned Senior Counsel that the accused persons are the owner of the aforesaid cattle and also considering the period of detention and further balancing the period of detention with the nature and gravity of the offence, this Court is inclined to allow this petition. And accordingly, it is provided that on furnishing a bond of Rs. 50,000/-each with one surety of like amount to the satisfaction of the

learned CJM, Magistrate, Kamrup (M), the accused persons be enlarged on bail.

JUDGE

Comparing Assistant