

GAHC010212352023



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

Case No. : Bail Appln./3368/2023

MOHIDUL KHAN
S/O RUPA KHAN
R/O MUKHARI
P.S. BARPETA
DIST. BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR G PHUKAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

22.09.2023

Heard Mr. G. Phukan, learned counsel for the accused and also heard Mr. P. Borthakur, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application, under Section 439 of the Code of Criminal Procedure, 1973 is preferred by accused, namely, Md. Mohidul Khan, who has been languishing in jail hazot since 01.09.2023, in connection with Laluk P.S. Case No.170/2023, under Section 379/411 IPC read with Section 11(1)(d) of the Prevention of Cruelty to Animals Act, 1960 read with Section 13(1) of the Assam Cattle Preservation (Amendment) Act, 2021, for grant of bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of one FIR lodged by S.I. Palash Pratim Gogoi of Doolahat Outpost under Laluk P.S. on 01.09.2023. The essence of allegation made in the FIR, is that acting on a tip off he along with his staff have apprehended one vehicle bearing Registration No.AS-01PC-2157, which was coming from North Lakhimpur to Laluk and on checking the same, he found one Md. Mohidul Khan, carrying 42 nos. of cattle, without any document.

4. Mr. Phukan, learned counsel for the accused, submits that the accused was arrested on 01.09.2023, and since then he has been languishing in jail hazot for last 22 days and that the accused is the driver of the aforesaid vehicle and the cattles were being carried in the said vehicle by one Tupajul Ali. Mr. Phukan, referring to Annexure-7 series submits that the said purchaser had valid documents of purchasing the cattle issued by Silapathar Animal Businessmen Association. Mr. Phukan further submits that the accused is ready to cooperate with the investigating agency and therefore, it is contended to allow this petition.

5. On the other hand, Mr. P. Borthakur, learned Additional Public Prosecutor has opposed the petition on the ground that prima facie materials are there against the accused.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record.

7. It appears that the accused was arrested on 01.09.2023, and since then he has been languishing in jail hazot for last 22 days. Further it appears that the I.O. got

sufficient time for investigation and considering the nature of accusation and the punishment prescribed for the same and balancing the same with the period of detention, this Court is inclined to allow this petition. It is provided that on furnishing a bail bond of ₹ 50,000/- with one surety of the like amount to the satisfaction of the learned Chief Judicial Magistrate, North Lakhimpur, the accused be enlarged on bail in connection with Laluk P.S. Case No.170/2023, under Section 379/411 IPC read with Section 11(1)(d) of the Prevention of Cruelty to Animals Act, 1960 read with Section 13(1) of the Assam Cattle Preservation (Amendment) Act, 2021.

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

Sd/- Robin Phukan
JUDGE

Comparing Assistant