

GAHC010215092023



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

Case No. : AB/3294/2023

MD AHIDUL ISLAM
S/O HASEN ALI R/O- GERUA ATIGAON, P.S- KHATOWAL, IN THE DISTRICT
OF NAGAON, ASSAM.

VERSUS

THE STATE OF ASSAM
REPRESENTED BY PUBLIC PROSECUTOR, GOVT. OF ASSAM

Advocate for the Petitioner : MR A DEKA

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

10.10.2023

Heard Mr. A. Deka, learned counsel for the applicant and also heard Mr. K.K. Das, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application, under Section 438 Cr.P.C. is preferred by the applicant, namely, Md. Ahidul Islam, who has been apprehending arrest in connection with Sonapur P.S.

Case No.182/2023, under Section 379/411/34 IPC read with Section 11(a)(b)(d) of the Prevention of Cruelty to Animals Act, read with Section 13(1) of the Assam Cattle Preservation Act, 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 UBC Osman Ali of Sonapur P.S. on 31.08.2023. The essence of allegation made in the FIR is that acting on a tip off on 31.08.2023 at 2:00 a.m. they have apprehended one Truck bearing Registration No.WB-45-5966 and found 50 nos. of cattle being carried in the vehicle without any document and apprehended two persons, namely, Sanjay Majhi and Md. Miraj Sheikh from the vehicle.

4. Mr. Deka, learned counsel for the applicant submits that the applicant is the owner of the cattle and in support of his submission Mr. Deka has referred to Annexures-2 to 11, which are the receipts issued by Silapathar Animal Businessmen Association on 29.08.2023 and that the allegations levelled in the said FIR are false and the applicant is ready to cooperate with the investigating agency and therefore, it is contended to allow this petition.

5. On the other hand, Mr. K.K. Das, learned Additional Public Prosecutor, submits that the name of the applicant find no mention in the FIR and but the statement of the co-accused reveals that some persons have asked them to carry the aforesaid cattle in the vehicle on the relevant date.

6. Having heard the submission of learned Advocates of both sides, I have gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Das, learned Additional P.P. and also perused the Annexures-2 to 11, which are the receipt of purchasing the cattle issued by Silapathar Animal Businessmen Association on 29.08.2023.

7. Considering the submission of learned Advocates of both the parties, and also considering the materials collected so far in the case diary and also considering the documents placed on record, specially the Annexures-2 to 11, this Court is of the view

that a prima facie case for granting the privilege of pre-arrest bail is made out in favour of the applicant and therefore, this Court is inclined to allow this petition. It is provided that in the event of arrest of the applicant, namely, Md. Ahidul Islam in connection with Sonapur P.S. Case No.182/2023, under Section 379/411/34 IPC read with Section 11(a) (b)(d) of the Prevention of Cruelty to Animals Act, read with Section 13(1) of the Assam Cattle Preservation Act, he shall be enlarged on pre-arrest bail on his executing a bail bond of ₹ 50,000/- 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 applicant shall make himself available for interrogation by the Investigating Officer as and when required;
 - (ii) The applicant 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 applicant shall not leave the jurisdiction of the learned C.J.M., Kamrup(M), without prior permission
8. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant