

GAHC010223032023



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

Case No. : AB/3392/2023

KHADIZUR RAHMAN
S/O MOHIRUDDIN SARKAR
VILL-KALDOBA PART-II
P.S. AGOMONI
DIST. DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, GOVT. OF ASSAM

Advocate for the Petitioner : MS. R CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

13.10.2023

Heard Ms. R. Choudhury, learned counsel for the applicant and also heard Mr. K.K. Parasar, 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, Khadizur Rahman, who has been apprehending arrest in connection with Golakganj P.S. Case No.343/2023, under Section 279/304/427/120(B)/201/307 IPC read with Section 13(1) of the Assam Cattle Preservation (Amendment) Act, 2021 read with Section 11 of

the Prevention of Cruelty to Animals 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-269 Uttam Kumar Barman of Golakganj P.S. on 23.08.2023. The essence of allegation made in the aforesaid FIR is that acting on a tip off, he along with other staff tried to intercept one vehicle, bearing Registration No.AS-01NC-8756 (Bolero Pickup Van) which was coming from Gouripur towards West Bengal side at a high speed. But, the vehicle, which was coming at high speed, broken the police barricade with intention to kill him and as a result, he sustained injuries over his leg and thereafter, the vehicle dashed against one E-Rickshaw and caused damage of the same and driver of the E-Rickshaw, namely, Abdul Sattar and two passengers, namely, Amrit Malakar and Nareswari Bala Roy sustained grievous injuries on their persons and later on, the driver of the E-Rickshaw succumbed to the injuries at the hospital and thereafter, while the driver of the vehicle tried to fled away through a lane at Belguri area under Agomoni P.S., it met with an accident and thereafter, the driver and two persons fled away from the said vehicle.

4. Ms. Choudhury, learned counsel for the applicant submits that the applicant is a shop owner and in support of her submission she has referred to one document at page-10 of the petition and that the applicant is a registered owner of the vehicle and on a verbal agreement he has given the vehicle to the driver, who used to pay @ ₹ 1,200/- to ₹ 1,300/- per day to him and that the applicant is no way involved with the offence alleged in the FIR and that he 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. Parasar, learned Additional Public Prosecutor, submits that the I.O. has submitted sufficient materials in support of the allegation made in the FIR and therefore, Mr. Parasar has contended to dismiss the petition.

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. Borthakur, learned Additional P.P.

7. The case diary indicates that the I.O. has examined some witnesses here in this case and further it appears from the FIR that the allegations are against the driver of the vehicle only.

8. In view of the materials collected so far in the case diary as well as the progress of investigation, custodial interrogation of the present applicant 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 applicant, namely, Khadizur Rahman, in connection with Golakganj P.S. Case No.343/2023, under Section 279/304/427/120(B)/201/307 IPC read with Section 13(1) of the Assam Cattle Preservation (Amendment) Act, 2021 read with Section 11 of the Prevention of Cruelty to Animals Act, he shall be released on pre-arrest bail on his executing a 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., Dhubri, without prior permission

9. In terms of above, this anticipatory bail application stands disposed of. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant