

GAHC010226662023



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

Case No. : Crl.Pet./1095/2023

SAIDUR HOQUE @ SAHIDUL ISLAM @ BASCHU SK
S/O LT. ABBAS ALI @ ABBAS SK
VILL- CHOTO DIGHALTARI
P.S. GOLAKGANJ
DIST. DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A T SARKAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

10.10.2023

Heard Mr. A.T. Sarkar, learned counsel for the petitioner and also heard Mr. P. Borthakur, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. In this petition, under Section 482 of the Code of Criminal Procedure, 1973, the petitioner, namely, Saidur Hoque @ Sahidul Islam @ Baschu Sk, has put to challenge the orders dated 25.11.2022 and 16.09.2023 passed by the learned Judicial Magistrate First Class, Dhubri. It is to be noted here that vide impugned orders dated 25.11.2022 and 16.09.2023, the learned Judicial Magistrate First Class, Dhubri, has issued summon to the petitioner in connection with PRC Case No.4054/2022, under Section 279/307/353/379 IPC read with Section 11(i)(a)(b)(d) of the Prevention of Cruelty to Animals Act.

3. Mr. Sarkar, learned counsel for the petitioner submits that the impugned orders dated 25.11.2022, and 16.09.2023, suffer from no infirmity. However, Mr. Sarkar submits that the petitioner has been charge-sheeted in the aforementioned case, under Section 279/307/353/379 IPC read with Section 11(i)(a)(b)(d) of the Prevention of Cruelty to Animals Act and the offence under Section 307 IPC is non-bailable and triable by the Court of Sessions and as such, the petitioner has the apprehension that in the event of his appearance before the learned Court below, he may be put behind the bar and therefore, Mr. Sarkar submits that a direction may be issued to the learned Court below to consider the petition filed by the petitioner for grant of bail.

4. Whereas, Mr. P. Borthakur, learned Additional Public Prosecutor, Assam, submits that vide impugned orders dated 25.11.2022, and 16.09.2023, the learned Court below has only issued summon to the petitioner and apparently the said orders suffer from no infirmity or illegality requiring any interference of this Court and as such, this petition may be disposed of at this motion stage itself by directing the petitioner to appear before the learned Court below and to apply for regular bail.

5. 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 impugned orders dated 25.11.2022 and 16.09.2023.

6. It appears that the learned Court below has issued summon to the petitioner to appear before the Court below vide impugned orders and admitted the same suffers from no infirmity or illegality requiring any interference of this Court. Therefore, this Court is

inclined to dispose of this petition by directing the petitioner to appear before the learned Court below and to apply for regular bail and in the event of filing such an application, the learned Court below shall consider the same in accordance with law.

Sd/- *Robin Phukan*
JUDGE

Comparing Assistant