

GAHC010231252023



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

Case No. : AB/3476/2023

MAJIBUR RAHMAN
W/O RAJIB ALI
R/O PUTHIKHAITY
P.O. KAWAIMARI,
DIST. NAGAON, ASSAM
PIN-782140

VERSUS

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

Advocate for the Petitioner : MR A DEKA

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

09.11.2023

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. Apprehending arrest in connection with Sonapur P.S. Case No.186/2023, under Section 120(B)/379/411 IPC, read with Section 13(1) of the Assam Cattle Preservation Act and Section 11(a)(b)(d) of the Prevention of Cruelty to Animals Act, this application under Section 438 Cr.P.C. is preferred by the applicant, namely, Majibur Rahman, for grant of pre-arrest bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by one Hemanta Kalita, UBC, Sonapur P.S. on 03.09.2023. The essence of allegation made in the aforesaid FIR is that on the night of 02.09.2023 he along with staff have apprehended one vehicle without Registration number and found 14 nos. of cattle carried in the same without any document in an atrocious manner.

4. Mr. Deka, learned counsel for the applicant submits that the applicant is the registered owner of the seized vehicle. Mr. Deka further submits that though at the time of apprehension of the vehicle the same was not registered, but subsequently, the vehicle was registered, being Registration No.AS-01QC-7698 (Mohindra Bolero Pickup), Chasis No.MA1RE2TTKP6G43503, Engine No.TTP4G15945 and that he is no way involved with the offence alleged in the FIR and 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. Das, learned Additional Public Prosecutor has produced the case diary before this Court and submits that the vehicle was being ran without any registration number. However, Mr. Das submits that no incriminating materials are available against the present applicant in the case diary.

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. Das, learned Additional P.P.

7. Having regards to the nature of accusation and the punishment prescribed for the same, and also considering the materials collected so far in the case diary, this Court is of the view that custodial interrogation of the 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, Majibur Rahman, in connection with Sonapur P.S. Case No.186/2023, under Section 120(B)/379/411 IPC, read with Section 13(1) of the Assam Cattle Preservation Act and Section 11(a)(b)(d) of the Prevention of Cruelty to Animals Act, he shall be enlarged 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., Kamrup(M), without prior permission.
8. In terms of above, this anticipatory bail application stands disposed of.
9. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant