

GAHC010231582022



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

Case No. : AB/3610/2022

MD. AINUL HAQUE
S/O ABDUL MALEK
R/O BHAGAMUR,
P.O. AND P.S. SAMAGURI
DIST. NOWGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR R BAISHYA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

04.01.2023

Heard Ms. N. Chakraborty, learned counsel for the applicant and Ms. S.H. Bora, learned Additional Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with Sonapur P.S. Case No. 167/2022, under Sections 120(b)/379/411 of the IPC read with sections 11[a], [b],[d] of Prevention of Cruelty to Animal Act and read with section 13[1] of the Assam Cattle Preservation Act [Amendment], this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicant, namely, Md. Ainul Haque, for grant of pre-arrest bail.

3. The said case has been registered on the basis of one F.I.R., lodged by SI Surajit Sarkar, on 25.08.2022, to the effect that acting on a tip off they have intercepted one vehicle, bearing registration No. AS-01-JC-1763 with 30 numbers of cattle being carried illegally from Nagaon towards Jorabat side without any document and accordingly, seized the same preparing seizure list in presence of witnesses.

4. Ms. Chakraborty, learned counsel for the applicant submits that the applicant is the registered owner of the seized vehicle and in support of the same she has produced one registration certification before this court. Ms. Chakraborty further submits that the applicant is no way involved with the offence alleged in the FIR and that the applicant is ready to co-operate with the investigating agency, and therefore, it is contended to allow the petition.

5. On the other hand, Ms. Bora, learned Additional Public Prosecutor, by producing the case diary before this court submits that the investigation is still going on and who is the registered owner of the seized vehicle yet to be ascertained. However, a copy of the registration certificate furnished by the learned counsel for the applicant before this court is furnished to the learned Addl. P.P. for perusal and having gone through the same, Ms. Bora submits that the applicant appears to be the registered owner of the vehicle. Further, Ms. Bora submits that the materials collected so far in the case diary, are inadequate

to show the complicity of the applicant with the offence alleged in the FIR.

6. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on the record and also perused the case diary with the assistance of Ms. Bora, learned Addl. P.P.

7. In view of the materials collected so far in the case diary as well as the progress of investigation and also considering the submission of learned counsel for both the parties, this court is of the view that custodial interrogation of the applicant, in the interest of investigation seems to be unwarranted here in this case.

8. Accordingly, it is provided that in the event of arrest of the applicant, in connection with Sonapur P.S. Case No. 167/2022, under Sections 120(b)/379/411 of the IPC read with sections 11[a],[b],[d] of Prevention of Cruelty to Animal Act and read with section 13[1] of the Assam Cattle Preservation Act [Amendment], he shall be enlarged on pre-arrest bail on his executing a bond of Rs. 25,000/- only, with one surety of like amount to the satisfaction of the arresting authority.

9. The above privilege is, however, subject to the following conditions:

(i) that the applicant shall make himself available for interrogation by the Investigating Officer as and when required;

(ii) that 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) that the applicant shall not leave the jurisdiction of the learned

learned CJM, Kamrup [M] at Guwahati, without prior permission.

10. Accordingly, this AB stands disposed of.

11. The case diary be returned.

JUDGE

Comparing Assistant