

GAHC010235182023



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

Case No. : AB/3538/2023

GOLAP HUSSAIN
S/O- FATIK MIYA, C/O- AJAY KR. MAHATO, 27A, KUNDIL NAGAR,
BASISTHA CHARIALI, GUWAHATI-781029, DIST. KAMRUP(M), ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE P.P., ASSAM

Advocate for the Petitioner : MR G PHUKAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

09.11.2023

Heard Mr. G. Phukan, 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 Laluk P.S. Case No.170/2023, under Section 379/411 IPC, read with Section 11(1)(d) of the Prevention of Cruelty to Animals Act,

1960, read with Section 13(1) of the Assam Cattle Preservation (Amendment) Act, 2021, this application under Section 438 Cr.P.C. is preferred by the applicant, namely, Golap Hussain, 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 Palash Protim Gogoi, S.I. of Police of Doolahat Out Post under Laluk P.S. on 01.09.2023. The essence of allegation made in the aforesaid FIR is that acting on a tip off they have apprehended one Truck, bearing Registration No.AS-01PC-2157 at about 8 p.m. on 01.09.2023 and found 42 nos. of cattle being carried in the said vehicle without any document and the driver of the Truck, namely, Mohidul Khan disclosed that he had carried the cattles from Silapathar towards Barpeta.

4. Mr. Phukan, learned counsel for the applicant submits that the applicant is the registered owner of the vehicle and the cattles were carried in the said vehicle with relevant documents which are annexed with the petition as Annexure-3 series and that 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 has produced the case diary before this Court and submits that though there is no direct evidence against the present applicant yet, some circumstantial evidences are against him and therefore, Mr. Das has opposed 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. Das, learned Additional P.P.

7. The case diary indicates that though the I.O. has examined some witnesses, yet, the materials collected so far in the case diary are inadequate to show the complicity of the present applicant with the offence alleged in the FIR. Having regards to the above, and also having regards to the nature of accusation and the punishment prescribed for the same, 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, Golap Hussain, in connection with Laluk P.S. Case No.170/2023, under Section 379/411 IPC, read with Section 11(1)(d) of the Prevention of Cruelty to Animals Act, 1960, read with Section 13(1) of the Assam Cattle Preservation (Amendment) Act, 2021, 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., North Lakhimpur, 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