

GAHC010238312023



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

Case No. : AB/3583/2023

SAHAB UDDIN AND ANR
S/O KOROM ALI
R/O TARAJAN
P.S. MIKIRBHETA
DIST. MORIGAON, ASSAM

2: RAFIQUUL ISLAM
S/O KAMAR UDDIN
R/O KALIADINGGA PAM
P.S. RUPAHIHAT
DIST. NAGAON
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MS. G BORAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 16-11-2023

1. Heard Ms. G Borah, learned counsel for the applicants and Ms. N Das, learned Additional PP, appearing for the State of Assam.

2. Apprehending arrest in connection with Basistha PS Case No.586/2023 under sections 379/411 IPC, read with section 11(1)(d) of Prevention of Cruelty to Animals Act, 1960 and read with section 13(1)/16 of the Assam Cattle Preservation (Amendment) Act, 2021 this application under section 438 Cr.P.C., is preferred by applicants, namely, 1. Sahab Uddin and 2. Rafiqul Islam, for grant of pre-arrest bail.
3. The above noted case has been registered on the basis of an FIR lodged by one ASI Matleb Ali of Jorabat Police Outpost on 25.09.2023. The essence of allegation made in the FIR is that acting on a tip off, he along with his staff apprehended a 6 wheeler Truck bearing registration No.AS 02 CC 9367, at Jorabat Tiniali and on checking the vehicle they found 21 numbers of cattle being carried in the vehicle without any documents and in a cruel manner.
4. Ms. Bora, learned counsel for the applicant submits that the applicant No.1. Sahab Uddin is the registered owner of the Truck, bearing registration No.AS 02 CC 9367, and the applicant No.2 is the owner of the cattle and that the applicant No.2 had purchased the cattle from Behora weekly market of Golaghat district and they are innocent and no way involved with the offence alleged in the FIR and therefore it is contended to allow this petition.
5. On the other hand Ms. N Das, learned Addl. PP submits that she has received the case diary, but the materials collected so far in the case diary are inadequate to show the complicity of the applicants with the offence alleged in the FIR.
6. Having heard the submission of the learned Advocates for both the sides, I have gone through the petition and the documents placed on record and also perused the case diary with the assistance of Ms. N Das, learned Addl. PP.
7. It also appears that the applicant No.1 is the registered owner of the vehicle and the applicant No.2 is the owner of the cattle and he had purchased the same from a weekly market of Golaghat district and he has enclosed the

relevant documents of purchasing the cattle which is annexed as Annexure – 4 series. In view of the materials collected so far in the case diary, and also in view of the submission of learned advocates for both the sides, custodial interrogation of the applicants seems to be not warranted here in this case.

8. Under the aforementioned facts and circumstances, this Court is inclined to allow this petition. Accordingly, it is provided that the applicants above named, in the event of their arrest in connection with the aforementioned case, shall be enlarged on pre arrest bail on furnishing a bail bond of Rs.50,000/- each with one suitable surety of the like amount to the satisfaction of the arresting authority.

9. The above privilege of the pre-arrest bail is, however, subject to the following conditions.

1. The applicant shall appear before the officer in charge of the concerned PS within a period of 10 days.
2. 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 them from disclosing such facts to the Court or to any police officer.
3. The applicant shall not leave the territorial jurisdiction of learned CJM, Kamrup (M) without prior permission.

JUDGE

Comparing Assistant