

GAHC010247232023



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

Case No. : Bail Appln./3949/2023

MD. SARIF AHMED AND 3 ORS
S/O NUR HUSSAIN, R/O VILL-DIGHALIATI, P.S.-RAHA, DIST-NAGAON,
ASSAM, PIN-

2: MD. GULJAR HUSSAIN
S/O LT. MUKBUL HUSSAIN
R/O VILL-TELIYA CHAPARI
P.S.-RUPAHIHAT
DIST-NAGAON
ASSAM
PIN-

3: MD. ATAUR RAHMAN
S/O LATE MAMTAJUDDIN
R/O VILL-TELIYA CHAPARI
P.S.-RUPAHIHAT
DIST-NAGAON
ASSAM
PIN-

4: MD. ABIDUR RAHMAN
S/O MIJANUR RAHMAN
R/O VILL-TELIYA CHAPARI
P.S.-RUPAHIHAT
DIST-NAGAON
ASSAM
PIN

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR I AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

06.11.2023

Heard Mr. I. Ahmed, learned counsel for the accused and also heard Mr. B. Sarma, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application under Section 439 Cr.P.C. is preferred by four accused, namely, Md. Sarif Ahmed, Md. Guljar Hussain, Md. Ataur Rahman and Md. Abidur Rahman, who are languishing in jail since 18.09.2023, in connection with Sonapur P.S. Case No.201/2023, under Section 120(B)/379/411 IPC read with Section 11(a)(b)(d) of the Prevention of Cruelty to Animals Act read with Section 13(1)/14 of the Assam Cattle Preservation Act, for grant of bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by S.I. Surajit Sarkar of Sonapur P.S. on 18.09.2023. The essence of allegation made in the aforesaid FIR is that acting on a tip off the informant and other staff have apprehended one Truck, bearing Registration No.AS-23BC-5299, at Nazirakhat Toll Gate and during search of the vehicle, they have found 60 nos. of cattle, being carried without any valid document and in a very cruel and ruthless manner and on being asked the driver failed to produce any valid document and they have also apprehended

one Toyota Glanza vehicle, bearing Registration No.AS-01FQ-7843, along with three persons, who were involved in passing the said Truck by keeping a watch on the police vehicle and the names of the culprits are Sarif Ahmed, Abidur Rahman, Atabur Rahman and Gulzar Hussain.

4. Mr. Ahmed, learned counsel for the accused persons submits that the accused persons have been arrested on 18.09.2023, and since then they are behind the bar for last 50 days. Mr. Ahmed further submits that the seized cattles were purchased from Bihora Market and the accused persons have enclosed the receipt of purchasing the said cattles at page-23 (Annexure-IV series) and that their further custodial detention may not be required in the interest of investigation and therefore, it is contended to allow the petition.

5. On the other hand, Mr. B. Sarma, learned Additional Public Prosecutor, Assam, has vehemently opposed the petition and submits that case diary may be called for.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record.

7. It appears that the accused were arrested on 18.09.2023, and since then they are languishing in jail hazot for last 50 days. It also appears that the I.O. got sufficient time for investigation of this case and besides the accused persons have enclosed some receipt of purchasing the said cattles from Bihora Weekly Cow (Buffalo) Selling Market, Bokakhat.

8. Having considered above and also considering the period of detention of the accused persons, their further custodial detention seems to be not warranted here in this case and therefore, this Court is inclined to allow this petition.

9. It is provided that on furnishing a bond of ₹ 50,000/- each, with one surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup(M), the accused persons, namely, Md. Sarif Ahmed, Md. Guljar Hussain, Md. Ataur Rahman and Md. Abidur Rahman, be enlarged on bail, in connection with Sonapur P.S. Case No.201/2023, under Section 120(B)/379/411 IPC read with Section 11(a)(b)(d) of the

Prevention of Cruelty to Animals Act read with Section 13(1)/14 of the Assam Cattle Preservation Act.

10. In terms of above, this bail application stands disposed of.

Sd/- Robin Phukan
JUDGE

Comparing Assistant