

GAHC010249092022



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

Case No. : AB/3618/2022

ABUBAKAR SIDDIK MIAH
S/O MD. JABBAR MIAH
VILL- BAROSALBARI
P.O. AND P.S. BOXIRHAT
DIST. COOCHBEHAR, (WB), PIN-783335

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M U MAHMUD

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

O R D E R

03.01.2023.

Heard Mr. M.U. Mahmud, learned counsel for the accused. Also heard Mr. B.B. Gogoi, learned Addl. P.P., Assam appearing for the State respondent.

Apprehending arrest in connection with Gossaigaon P.S. Case No.401/2022, under Sections 379/411/429/34 of the IPC, read with Section 13(1) of the Assam Cattle Preservation (Amendment) Act, 2021, corresponding to GR No.441/2022, the application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicant, namely, Abubakar Siddik Miah, for grant of pre-arrest bail.

The said case has been registered on the basis of an F.I.R., lodged by UBC Prahlad Brahma on 28.10.2022, to the effect that on the same day, at about 4:30 A.M., they have intercepted one vehicle bearing Regn. No.WB-65D-2439 and after checking the same, they have found six bags of beef, approximately 300 Kg., which were kept hidden under the potato bags and apprehended the driver, namely, Sirajul Miah and during interrogation, he stated that he along with his cousin-brother Abubakar Siddik Miah, used to sell beef in the above mentioned area, where non-beef eating community also resided.

Mr. MU Mahmud, learned counsel for the applicant submits that the applicant hails from West Bengal and he has been implicated by the co-accused for not providing money, as demanded by him and that he is ready to cooperate with the investigating agency and his custodial interrogation is not required here in this case, as the beef has also been seized and therefore, it is contended to allow the petition.

On the other hand, Mr. BB Gogoi, learned Addl. P.P., Assam has produced the case diary before this Court and submits that there are sufficient materials against the applicant and the offence is serious in nature and therefore, Mr. Gogoi has contended to dismiss the petition.

Having heard the submissions 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 produced before this Court with the assistance of Mr. Gogoi, learned Addl. P.P., Assam.

It appears that approximately 300 Kg. beef in six packets were recovered and seized by police on 28.10.2022, from a vehicle bearing Regn. No.WB-65D-2439 and that the I.O. has collected some materials against the applicant, who hails from West Bengal. However, in view of progress of investigation and in view of the assurance given by Mr. MU Mahmud, learned counsel for the applicant that the applicant is ready to cooperate with the investigating agency, this Court is inclined to allow the petition, as the custodial interrogation of the applicant seems to be not warranted in the interest of investigation.

Accordingly, it is provided that in the event of arrest of the applicant, named above, in connection with Gossaigaon P.S. Case No.401/2022, he shall be enlarged on pre-arrest bail, on his executing a bond of Rs.25,000/- (Rupees twenty five thousand) only, with one surety of like amount to the satisfaction of the arresting authority.

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 SDJM

(M), Gossaigaon, without prior permission.

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

The Case Diary be sent back.

JUDGE

Comparing Assistant