

GAHC010269302022



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

Case No. : AB/3836/2022

JAHIDUL ISLAM AND ANR.
S/O RUPCHAND ALI,
VILL.- HARSHRAOWARI,
P.S.- DHALIGAON,
DIST.- CHIRANG, BTC, ASSAM.

2: RAIJUDDIN ALI
S/O WAJUDDIN SHEIKH
VILL.- HASHRAOWARI
P.S. DHALIGAON
DIST.- CHIRANG
BTC
ASSAM

VERSUS

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

Advocate for the Petitioner : MR. A M AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 17-01-2023

Heard Mr. A.M. Ahmed, learned counsel for the applicant and also heard
Mr. R.J. Baruah, learned Additional PP, appearing for the State of Assam.

Apprehending arrest in connection with ***Runikhata PS Case No.45/2022***, under sections ***120(B)/379/411 IPC***, read with section 11(1)(a) (c)(d)(h) of the Prevention of Cruelty to Animals Act, 1960 read with section 13(1) of the Assam Cattle Preservation Act, 2021, this application under section 438 Cr.P.C., is preferred by applicant 1. Jahidul Islam & 2. Raijuddin Ali, for grant of pre-arrest bail.

The aforementioned case has been registered on the basis of an FIR lodged by ASI Anil Basumatary (UB) on 13.10.2022 to the effect that acting on a tip off, they have intercepted two vehicles bearing registration No. AS 26 C 7596 and AS 26 C 7263 at about 2.00 AM on 13.10.2022, with six numbers of cattle in the vehicle and apprehended one Jaynal Ali and Tajirul Miya from the said vehicle and they have failed to produce any documents, such as permit for transportation of animal etc.

The learned counsel for the applicants submits that the applicants are the driver and handymen of the two trucks, from where the cattle were recovered and seized, and the owner of the cattle has already been arrested and enlarged on bail by this Court and that the applicants are innocent and they are ready to cooperate with the investigating agency and therefore, it is contended to allow this petition.

Whereas, Mr. RJ Baruah, has produced the case diary before this Court and submits that there is no direct involvement of the applicant in the offence alleged in the FIR and as per the materials collected in the case diary, the applicants are the driver of both the vehicles.

Having heard the submissions of learned advocates for both the sides, I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of learned addl. PP.

In view of the materials collected so far in the case diary and also in view of the nature of accusations and the punishment prescribed for the same, custodial interrogation of the applicant seems to be unwarranted here in this case and accordingly, this Court is inclined to allow this petition.

Accordingly, it is provided that, in the event of arrest of the applicant in

connection with aforementioned case, the applicant above named shall be enlarged on pre arrest bail on his executing a bail bond of Rs.25,000/-, with one surety of the like amount to the satisfaction of the arresting authority. The above privilege of the pre-arrest bail is, however, subject to the following conditions.

1. The applicant shall make himself available before the Investigating Officer for interrogation as and when required.
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, Chirang, without his prior permission.

JUDGE

Comparing Assistant