

GAHC010273182023



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

Case No. : Bail Appln./4397/2023

MOSTUFA ALI @ MOSTAFA ALI
S/O LATE HARJAT ALI
R/O VILL- KANUAMARI,
P.S. SAMAGURI
DIST. NAGAON, ASSAM
PIN-782140

VERSUS

THE STATE OF ASSAM
THROUGH THE PP, ASSAM

Advocate for the Petitioner : MR. S RAHMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

04.12.2023

Heard Mr. A.N. Iqbal, learned counsel for the accused and also heard Mr. P. Borthakur, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application, under section 439 Cr.P.C. is preferred by accused, namely, Mostufa Ali @ Mostafa Ali, who has been languishing in jail hazot since 08.11.2023, in connection with Basistha P.S. Case No.691/2023, under Section 379 IPC read with Section 11(1)(d) of the Prevention of Cruelty to Animals Act, read with Section 13(1)/16 of the Assam Cattle Preservation Act, for grant of bail.

3. It is to be noted here that the above noted case has been registered on the basis of an FIR lodged by ASI Motleb Ali of Jorabat Police Outpost on 08.11.2023. The essence of allegation made in the aforesaid FIR is that on the intervening night of 08.11.2023, at about 4:30 a.m., they have conducted search in three numbers of vehicles, bearing Registration Nos.AS-07L-9063 (Bolero), AS-01DH-0847 (Swift D-zire) and AS-06J-5961 (Swift D-zire), which were coming from Nagaon side towards Meghalaya and on checking the same, they have found 6 nos. of cattle in the Bolero car, 5 nos. of cattle in one Swift Dzire and 6 nos. of cattle in the other Swift Dzire and apprehended one Mostafa Ali, Yakub Ali and Asadullah, the drivers of the aforesaid vehicles and also apprehended one helper, namely, Abdul Motin.

4. Mr. Iqbal, learned counsel for the accused, submits that the accused was arrested on 08.11.2023, and since then he has been languishing in jail hazot. It is the further submission of the learned counsel for the accused that the mother of the accused is suffering from ailments and in support of his submission he has referred to Annexure-5 at page-21 of the petition, which shows that the mother of the accused is suffering from left renal concretion and mildly bulky uterus with minimal endometrial collection. The learned counsel for the accused further submits that some of the co-accused have already been enlarged on bail by this Court vide order dated 30.11.2023, in Bail Appln. No.4339/2023 and therefore, it is contended to allow the petition, maintaining parity with the accused in the said bail application.

5. On the other hand, Mr. P. Borthakur, learned Additional Public Prosecutor submits that the accused is the driver of the Bolero car, from where 6 nos. of cattle were recovered and the forwarding report indicates some materials in support of the allegation

made in the FIR and therefore, Mr. Borthakur has opposed the petition.

6. Having heard the submission of learned Advocates for both the sides, I have carefully gone through the petition and the documents placed on record and also perused the order dated 30.11.2023 passed in Bail Appln. No.4339/2023.

7. It appears that the accused was arrested on 08.11.2023, and since then he has been languishing in jail hazot. Further, it appears that the mother of the accused is suffering from some ailments and some co-accused have already been enlarged on bail, vide order dated 30.11.2023.

8. Having considered above and also considering the period of detention and balancing the same with the nature of accusation and the punishment prescribed for the same, this Court is inclined to allow this petition. It is provided that on furnishing a bond of ₹ 50,000/- (Rupees Fifty Thousand) with one surety of like amount, to the satisfaction of the learned Chief Judicial Magistrate, Kamrup(M), the accused be enlarged on bail.

9. In terms of above, this petition stands disposed of.

Sd/- Robin Phukan
JUDGE

Comparing Assistant