

GAHC010284462023



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

Case No. : Bail Appln./4553/2023

SADARUL HOQUE AND ANR
S/O SAIFUL HOQUE
R/O VILL- BESAMARI
P.S. DHING
DIST. NAGAON, ASSAM

2: GOBINDA MISHRA
S/O INDR AMISHRA
R/O VILL- HIJUGURI A.T. ROAD

P.S. TINSUKIA

DIST. TINSUKIA
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. T CHUTIA

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

18.12.2023

Heard Mr. T. Chutia, learned counsel for the applicants. Also heard Ms. N. Das, learned Additional Public Prosecutor for the State respondent.

This is an application filed under Section 439 of the Code of Criminal Procedure, 1973, are preferred by accused/applicants, namely, Sadarul Hoque and Gobinda Mishra, who has been languishing in jail hazot since 14.11.2023 in connection with Basistha P.S. Case No. 704/2023, under Sections 379 IPC, *read with* Section 11 (1) (d) of Prevention of Cruelty to Animal Act, 1960, *read with* Section 13(1)/16 Assam Cattle Preservation Act, 2021.

It is submitted by the learned counsel for the applicants, Mr. T. Chutia, that the applicants i.e the driver and handyman were arrested in connection with the aforesaid case and forwarded them to the judicial custody vide letter dated 14.11.2023 and since then, they are behind the Bar. He also submits that the accused applicants are no way involved in the alleged offence as stated in the FIR. It is also submitted that the owner of the Cattle and driver of the offending vehicle were granted with pre-arrest bail vide order dated 05.12.2023 passed in AB No. 4063/2023. Further he submitted that the accused persons are in custody since 14.11.2023 and thus, the I.O. got ample opportunity to interrogate the accused keeping them in custody for a considerable period. So, considering this aspect of the case and also considering the length of detention undergone by the accused/applicants, further custodial detention of the accused/applicants, in the interest of investigation, seems to be unwarranted here in this case.

On the other hand, Ms. N. Das, learned Additional Public Prosecutor,

submits that the applicants are already behind the bar since 14.11.2023 and accordingly, their further custodial interrogation may not be necessary in the present case.

Considering the submissions of learned counsel for both sides and also considering the fact that the accused/applicants were driver and handyman of the offending vehicle and further considering the length of detention already undergone by the accused/applicants, I am of the view that the I.O. has got ample opportunity to interrogate the accused/applicants in the custody and accordingly, further custodial interrogation of the accused/applicants seems to be not necessary here in this case.

Accordingly, it is provided that on furnishing a bond of Rs. 20,000/- (Rupees twenty thousand) each with one surety of like amount to the satisfaction of the learned CJM, Kamrup (M), the accused/applicants, namely, **Sadarul Hoque** and **Gobinda Mishra**, be enlarged on bail, subject to the following conditions:

- (i) that the applicants shall make themselves available for interrogation by the Investigating Officer as and when required;
- (ii) that the applicants 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; and

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

JUDGE

Comparing Assistant