

GAHC010003332024



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

Case No. : AB/54/2024

DILUWARA BEGUM AND ANR
W/O SAFIR UDDIN
R/O JURIRPAR
P.S. KACHUA
DIST. NAGAON, ASSAM

2: FURKAN ALI
S/O SAFIR UDDIN
R/O JURIRPAR
P.S. KACHUA
DIST. NAGAON
ASSA

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. A T SARKAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 19-01-2024

Heard Mr. A. T. Sarkar, learned counsel for the applicants and also heard Mr. P.

S. Lahkar, learned Addl. P.P. for the State respondent.

This application, under Section 438 Cr.P.C. is preferred by applicants, namely, Diluwara Begum and 2. Furkan Ali who have been apprehending arrest in connection with Sootea P.S. Case No. 128/2023, under Section 379/411/279/427 IPC read with Section 13(1) Assam Cattle Preservation Act, 2021, read with Section 11(1) of Prevention of Cruelty to Animal Act, 1960 for grant of bail.

The above noted case has been registered on the basis of one FIR lodged by S.I. Rajdeep Newar of Sootea P.S. on 21.11.2023.

The essence of allegation made in the FIR dated 21.11.2023 is that acting on a tip off the informant alongwith his staff chased a vehicle, bearing registration No.AS-02-AH-0403 (Hyundai i 20), which was coming from Biswanath Chariali towards Tezpur as the driver refused to stop the same as asked for and they have intercepted the same near Mornai bridge, near Sootea Purana Centre, where the vehicle met with an accident. And he found the driver of the vehicle already fled away. Then having checked the vehicle, they found three nos. of cattle in the vehicle and seized the same preparing seizure list.

The learned counsel for the applicants submits that the applicant No. 1 is the owner of the vehicle No.AS-02-AH-0403 and applicant No. 2 is her son and that they are no way involved with the offence alleged in the FIR and that the vehicle was purchased by her husband who used to run the same and he was arrested by police and was also granted bail by the learned Chief Judicial Magistrate, Biswanath Chariali on 15.12.2023 and that the applicants are ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

On the other hand, Mr. Lahkar, learned Addl. P.P. submits that he has received the case diary, but except the statement of the husband of the applicant No.1, there is no other material against the present applicants.

Having heard the submissions of learned Advocates for both sides, I have carefully gone through the petition and documents available on record and also perused the case diary with the assistance of Mr. Lahkar, learned Addl. P.P.

In view of the materials collected so far in the case diary, and also in view of the accusation and the punishment for the same, this Court is of the view that custodial interrogation of the applicants seems to be not warranted in the interest of the investigation. And therefore this Court is inclined to allow this petition. It is provided that in the event of arrest of the applicants, in connection with Sootea P.S. Case No. 128/2023, under Section 379/411/279/427 IPC read with Section 13(1) Assam Cattle Preservation Act, 2021, read with Section 11(1) of Prevention of Cruelty to Animal Act, 1960, they shall be released on pre arrest bail on their executing a bond of Rs.50,000/ each with one surety of like amount to the satisfaction of the arresting authority.

The above privilege is, however, subject to the following conditions:

1. That the applicants shall make themselves available for interrogation by the Investigating Officer as and when required;
2. 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 him from disclosing such facts to the Court or to any police officer; and
3. That the applicants shall not leave the jurisdiction of the learned Chief Judicial Magistrate, Biswanath Chariali, without prior permission.

In terms of above, this A.B stands disposed of .
Case diary be returned.

JUDGE

Comparing Assistant