

GAHC010003852024



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

Case No. : AB/44/2024

IKRAMUL HUSSAIN
S/O RAFIK UDDIN AHMED
VILL- JHARTHANI (JHARKHANI), P.O. TELIACHAPARI, SAMUGURI,
NAGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M H LASKAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

18.01.2024

Heard Mr. M. Hossain, learned counsel for the applicant and Mr. B. Sharma, learned Additional Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with the **Basistha P.S. Case No. 758/2023**, under Section 379 of the IPC read with Section 11[1][d] of PCA Act and read with Section 13[1] of ACP Act, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicant namely, **Ikramul Hussain** for grant of pre-arrest bail.

3. The said case has been registered on the basis of one F.I.R. lodged by SI Chinmoy Baruah, on 04.12.2023. The essence of allegation made in the FIR is that on 04.12.2023, at about 9:30 pm, he has intercepted two vehicles, bearing registration No. AS-12-CC-3029 and AS-02-DC-3766, which were coming from Nagaon towards Meghalaya and during search, he recovered 22 numbers of cattle from the aforesaid two vehicles, and apprehended two persons namely, Dildar Hussain and Abu Taleb.

4. Mr. Hossain, learned counsel for the applicant submits that the applicant is the owner of AS-12-CC-3029 and that he is innocent and no way involved with the offence alleged in the FIR. Mr. Hossain further submits that the learned court below has already released the said vehicle in his custody and that he is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, by producing the Case Diary before this Court, Mr. Sharma, learned Additional Public Prosecutor submits that the nowhere in the case diary there is any reference of the present applicant, though he has been apprehending arrest herein this case.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition as well as the documents placed on record and also perused the Case Diary produced before this Court, with the assistance of learned Additional Public Prosecutor.

7. The case diary indicates that the IO has achieved substantial progress of the case. That being so custodial interrogation of the applicants seems to be not warranted here in this case.

8. Having considered above and considering the nature of accusation

as well as the punishment prescribed for the same and also considering the submissions of learned counsel of both sides, this Court is of the view that further custodial interrogation of the applicants may not be required, in the interest of investigation.

9. Accordingly, it is provided that in the event of arrest of the applicant, in connection with the **Basistha P.S. Case No. 758/2023**, under Section 379 of the IPC read with Section 11[1][d] of PCA Act and read with Section 13[1] of ACP Act, he shall be enlarged on pre-arrest bail, on his executing a bond of Rs. 50,000/- only, with one surety of like amount to the satisfaction of the arresting authority.

10. 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 **Chief Judicial Magistrate, Kamrup [M] at Guwahati**, without prior permission.

11. Case diary be returned.

JUDGE

Comparing Assistant