

GAHC010007272024



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

Case No. : AB/139/2024

SAHAB UDDIN AND ANR
S/O KARAM ALI
VILL- TARAJAN
P.S. MIKIRBHETA
DIST. MORIGAON, ASSAM

2: NASIR UDDIN
S/O MOKBUL HUSSAIN
VILL-MORISOTI PAM
P.S. MAYONG
DIST. MORIGAON
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MD B ISLAM

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN**

ORDER

Date : 10.04.2024

Heard Mr. A. Alam, learned counsel for the applicants and R.J. Baruah, learned Additional Public Prosecutor for the State respondent.

2. This application, under Section 438 Cr.P.C. is preferred by two applicants, namely, Sahab Uddin and Nasir Uddin, who have been apprehending arrest in connection with Basistha P.S. Case no. 01/2024, under Section 379 of the IPC, read with Section 11(1)(d) of the Prevention of Cruelty of Animals Act, read with Sections 13(1)/16 of the Assam Cattle Preservation (Amendment) Act, for grant of pre-arrest bail.

3. It is to be noted that the above noted case has been registered on the basis of an FIR lodged by SI Ritupon Kalita on 03.01.2024. The essence of allegation made in the FIR dated 03.01.2024, is that the informant, along with other police staff, while attending patrolling duty on the intervening night of 03.01.2024, at about 5 a.m., had intercepted two vehicles, bearing Registration Nos. AS-01-NC-9425 and AS-21-C-9567, and on checking the same, they found 26 numbers and 21 numbers of live cattle, respectively, being carried in each of the vehicles, without any valid documents.

4. Mr. Alam, learned counsel for the applicants submits that the applicants had been granted the privilege of interim pre-arrest bail, vide order dated 24.01.2024, and pursuant to the said order, they had appeared before the I.O. and their statements had also been recorded, and that they have been cooperating with the investigating agency, and therefore, a contention is being made that the interim order dated 24.01.2024, may be made absolute in the

same terms and conditions.

5. On the other hand, Mr. R.J. Baruah, the learned Addl. Public Prosecutor has produced the case diary before this Court and confirmed appearance of the applicants before the I.O. concerned and further Mr. Baruah submits that they have been cooperating with the investigating agency. Mr. Baruah further submits that the present applicants are the owners of the vehicles seized by the I.O. and without their permission, the driver and helper of the vehicles carried the cattle in the same.

6. Having heard the submission of learned Advocates of both sides, I have gone through the application and the documents placed on record and also perused the case diary with the assistance of Mr. Baruah, learned Addl. Public Prosecutor.

7. It appears that vide order dated 24.01.2024, this Court was pleased to extend interim protection to the applicants and thereafter, they had appeared before the I.O. and cooperating with the investigating agency. In view of the materials collected so far in the case diary as well as the stage of investigation and further considering the fact that the applicants have been cooperating with the investigating agency, their custodial interrogation, in the interest of investigation, seems to be not warranted here in this case.

8. Accordingly, the interim order dated 24.01.2024, is hereby made absolute in the same terms and conditions.

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

10. Case diary be returned.

JUDGE

Comparing Assistant