

GAHC010008052024



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

**Case No. : Bail Appln./248/2024**

ENAMUL HAQUE AND 2 ORS  
S/O EAKUB ALI  
VILL- MIKIRAGAON  
P.S. DHARAMTUL  
DIST. MORIGAON, ASSAM

2: JAYNUR ALI  
S/O NURUL ALI  
VILL- NARAMARI  
P.S. DHARAMTOL  
DIST. MORIGAON  
ASSAM

3: REKIB AHMED  
S/O AMIR ALI  
VILL- GHUNUSAHABI  
P.S. JAGIROAD

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 : 07.02.2024**

Heard Mr. B. Islam, learned counsel for the accused and Mr. R.J. Baruah, learned Addl. Public Prosecutor for the State respondent.

2. This application, under Section 439 Cr.P.C. is preferred by the three accused, namely, Enamul Haque, Jaynur Ali and Rekib Ahmed, who have been languishing in jail hazot in connection with Basistha P.S. Case No. 01/2024, under Section 379 of the IPC, read with Sections 11/(1)(d) of the Prevention of Cruelty to Animals Act, 1960, read with Sections 13(1)/16 of the Assam Cattle Preservation (Amendment) Act, 2021, for grant of bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by SI(P) Ritupon Kalita of Jorabat Out Post on 03.01.2024. The essence of allegation made in the FIR dated 03.01.2024 is that on 02.01.2024, at about 5 a.m., they have intercepted two vehicles, bearing Registration Nos. AS-01-NC-9425 and AS-21-C-9567, and found carrying 26 numbers of live cattle in the vehicle bearing Registration No. AS-01-NC-9425, and 21 numbers of live cattle in the vehicle bearing Registration No. AS-21-C-9567, and the drivers and helper of the two vehicles, namely, Enamul Haque, Jaynur Ali and Rekib Ahmed failed to produce any document of carrying the said cattle in the aforementioned vehicles.

4. Mr. Islam, the learned counsel for the accused submits that the accused were arrested on 03.01.2024 and since then, they have been languishing in jail hazot for last 35 days and that the co-accused has already been enlarged on bail, and that they are ready to cooperate with the investigating agency and

therefore, it is contended to allow the application.

5. On the other hand, Mr. R.J. Baruah, learned Addl. Public Prosecutor has produced the case diary before this Court and submits that investigation is still going on and the case is pending for arrest of co-accused persons and accordingly, Mr. Baruah has opposed the application.

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

7. It appears that the accused have been languishing in jail hazot since 03.01.2024, for last 35 days and that investigation is going on, and the I.O. has also collected some materials in support of the allegation in the FIR.

8. However, having regards to the period of detention and also balancing the same with the nature and gravity of the offence, and also considering the progress of investigation, further custodial detention of the accused persons seems to be not warranted here in this case and therefore, this Court is inclined to allow the petition. It is provided that on furnishing a bond of Rs. 50,000/- each, with one surety of like amount, to the satisfaction of the learned CJM, Kamrup(M) at Guwahati, the accused persons be enlarged on bail.

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

10. Case diary be returned.

**JUDGE**

**Comparing Assistant**