

GAHC010018552024



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

**Case No. : AB/220/2024**

ASHRAFUL ISLAM  
S/O ATOR ALI  
R/O VILL- NO. 2 BORGHULI, P.S. ULUWANI,  
DIST. NAGAON, ASSAM

VERSUS

THE STATE OF ASSAM  
THROUGH THE PP, ASSAM

**Advocate for the Petitioner : M. HOSSAIN**

**Advocate for the Respondent : PP, ASSAM**

**BEFORE**  
**HONOURABLE MR. JUSTICE ROBIN PHUKAN**

**ORDER**

**Date : 20-02-2024**

Heard Mr. M. Hossain, learned counsel for the applicant and also heard Mr. R. J. Barua, learned Addl. P.P. for the State respondent.

This application, under Section 438 Cr.P.C. is preferred by applicant, namely, Ashraful Islam, who has been apprehending arrest in connection with Khetri P.S. Case No. 153/2023, under Sections 379/411/34 IPC read with Section 7/13 of Assam Cattle Preservation (Amendment) Act, 2021, read with Section 11 of

Prevention of Cruelty to Animals Act, 1960, for grant of pre-arrest bail.

The above noted case has been registered on the basis of an FIR lodged by one Diluwar Hussain Barbhuiya on 31.8.2023.

The essence of allegation made in the FIR that on 31.8.2023 at about 8 PM while the informant was attending papa duty on N.H. 37, under Khetri Police Station, he intercepted one vehicle bearing registration No. AS 12 CC 2440 and found 10 nos of cattle being carried in the said vehicle without relevant documents and later on, he came to know from reliable source that the cattles were stolen from Rupahi, Nagaon and being taken to Meghalaya for smuggling.

The learned counsel for the applicant submits that the applicant is the registered owner of the vehicle bearing registration No. AS 12 CC 2440, and the said vehicle was seized in connection with the above noted case and same was released in the custody of the applicant by the learned Court below and that the applicant is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

On the other hand, Mr. R. J. Barua, learned Addl. P.P. submits that he has not received the case diary and that the I.O. has prayed for granting some more time to produce the case diary before the Court.

However, it appears from the order dated 16.2.2024 that last opportunity is given to the prosecution side to produce the case diary before this Court and in the event of failing to produce the case diary before this Court, it was proposed that the matter will be heard and dispose of without case diary. Accordingly, this Court is inclined to dispose of the petition without perusing the case diary. It appears that the applicant is the registered owner of the vehicle which was seized in connection with the above noted case. Further, it appears that the

vehicle has already been given in the custody of the applicant and in view of the materials placed on record and also considering the nature and gravity of the offence, custodial interrogation of the applicant seems to be not warranted herein this case. And therefore this Court is inclined to allow this petition. It is provided that in the event of arrest of the applicant, in connection with Khetri P.S. Case No. 153/2023, under Sections 379/411/34 IPC read with Section 7/13 of Assam Cattle Preservation (Amendment) Act, 2021, read with Section 11 of Prevention of Cruelty to Animals Act, he shall be released on pre arrest bail on his executing a bond of Rs.50,000/- 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 applicant shall appear before the I.O. within a period of 10(ten) days from today.
2. 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
3. That the applicant shall not leave the jurisdiction of the learned Chief Judicial Magistrate, Kamrup(M), without prior permission.

In terms of above, this A.B stands disposed of .

**JUDGE**

**Comparing Assistant**