

GAHC010020162024



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

Case No. : AB/250/2024

MAINUL HOQUE
S/O- AHAMMAD ALI, VILL- KOACHGAON, P.S. RUPAHIHAT, DIST.
NAGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A M KHAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 06.02.2024

Heard Mr. A.M. Khan, learned counsel for the applicant. Also heard Mr. B. Sarma, learned Addl. Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with Basistha P.S. Case No. 842/2023, under Section 379 of the IPC, read with Section 11(1)(d) of Prevention of Cruelty to Animal Act, 1960, read with Sections 13(1)/16 of Assam Cattle

Preservation Act, 2021, this application under Section 438 Cr.P.C. has been preferred by the applicant, namely, Mainul Hoque for grant of pre-arrest bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by one Bipul Ch. Deka, ASI of Jorabat Out Post on 28.12.2023. The essence of allegation made in the FIR dated 28.12.2023, is that on 27.12.2023, at about 4:30 a.m., while he was attending night patrolling duty, he intercepted one container vehicle bearing Registration No. NL-01K-7143, illegally carrying cattle from Guwahati side to Byrnihat, Meghalaya, and having searched the vehicle, he found 26 numbers of live cattle and seized the same in presence of witnesses, and that the driver of the vehicle could not show any valid document in respect of the cattle being carried in the said vehicle.

4. Mr. Khan, learned counsel for the applicant submits that the applicant is innocent and no way involved in the offence alleged in the FIR, and one of the co-accused, namely, Ajgar Ali @ Gaonbura has been extended the privilege of interim pre-arrest bail vide order dated 12.01.2024 in AB No. 99/2024, and the same has been made absolute after perusing the case diary today. Mr. Khan further submits that the applicant is ready to cooperate with the investigating agency and therefore, it is contended to extend the privilege of interim bail to the applicant.

5. However, Mr. B. Sarma, the learned Addl. Public Prosecutor submits that except the statement of co-accused, there is no other material present against the accused.

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 assistant of Mr. B. Sarma, learned Addl. Public Prosecutor.

7. In view of the materials collected so far in the case diary and also in view of the submission of learned Advocates of both sides as well as the stage of investigation, custodial interrogation of the applicant seems to be not warranted in this case, and therefore, this Court is inclined to allow this application.

8. Accordingly, it is provided that in the event of arrest of the applicant in connection with Basistha P.S. Case No. 842/2023, under Section 379 of the IPC, read with Section 11(1)(d) of Prevention of Cruelty to Animal Act, 1960, read with Sections 13(1)/16 of Assam Cattle Preservation Act, 2021, he shall be released on pre-arrest bail on 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:

- (i) The applicant shall make himself available for interrogation by the Investigating Officer as and when required;
- (ii) 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) The applicant shall not leave the jurisdiction of the learned C.J.M., Kamrup(M), Guwahati without prior permission.

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

JUDGE

Comparing Assistant