

GAHC010037252024



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

Case No. : AB/471/2024

KHUDEJA KHATUN
W/O HABIBUR RAHMAN
VILL- BHURBANDHA NO. 4, P.O. AMBAGAN, P.S. RUPAHI
DIST. NAGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : M. HOSSAIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 12.03.2024

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

2. Vide orders dated 27.02.2024 and 07.03.2024, Mr. B. Sarma, learned Additional Public Prosecutor was directed to produce the case diary before this

Court. But, Mr. Sarma submits that he has not received the case diary. At this stage, the learned counsel for the applicant submits that vide order dated 07.03.2024, it has been ordered that in the event of failing to produce the case diary, the Court will proceed to hear and dispose of the application without perusing the case diary, and therefore, Mr. Laskar, learned counsel for the applicant submits that the application may be heard and disposed of on the basis of the materials placed on record.

3. Accordingly, this Court is inclined to dispose of this application without perusing the case diary.

4. It is to be noted here that apprehending arrest in connection with Basistha P.S. Case No. 83/2024, under Sections 120B/379 of the IPC, read with Section 11(1)(d) of Prevention of Cruelty to Animal Act, read with Sections 13(1)/16 of the Assam Cattle Preservation (Amendment) Act, this application under Section 438 Cr.P.C. has been preferred by the applicant, namely, Khudeja Khatun, for grant of pre-arrest bail.

5. The aforementioned case has been registered on the basis of an F.I.R., lodged by SI(P) Ritupon Kalita of Jorabat Out Post, on 09.02.2024. The essence of allegation made in the FIR dated 09.02.2024, is that on 08.02.2024, at about 10 p.m., the informant along with his staff, was attending patrolling duty at Jorabat area and then, on 09.02.2024, at about 4 a.m., they intercepted one vehicle, bearing Registration No. AS02 AL 5089 and apprehended one Noor Mohammad, Riaz Uddin, Faridul Islam and Noor Hussain, while they were allegedly escorting one vehicle loaded with cattle illegally and atrociously from Nagaon side en route Byrnihat, Meghalaya, and during interrogation, the driver and helper of the said vehicle stated that they were escorting a cattle loaded vehicle, bearing Registration No. AS02 CC 8143, which was coming behind

them. Accordingly, they found the vehicle, bearing Registration No. AS02 CC 8143, at Jorabat Link Road, near RP Hotel in abandoned condition and the driver of the vehicle managed to escape, and during checking, they found 20 numbers of live cattle in the said vehicle.

6. Mr. Laskar, learned counsel for the applicant submits that the applicant is the registered owner of the vehicle, bearing Registration No. AS02 AL 5089, and that she is no way involved with the offence alleged in the FIR, and that the vehicle has already been given in her custody by the learned Court below, but she could not go to the police station to receive the same apprehending that she may be arrested herein this case, and that she is ready to cooperate with the investigating agency, and therefore, it is contended to allow the application.

7. In view of the submission of learned counsel for both the parties and also in view of the materials placed on record and further considering the nature and gravity of the offence and punishment prescribed for the same, this Court is inclined to extend the privilege of pre-arrest bail to the applicant.

8. Accordingly, it is provided that in the event of arrest of the applicant in connection with Basistha P.S. Case No. 83/2024, under Sections 120B/379 of the IPC, read with Section 11(1)(d) of Prevention of Cruelty to Animal Act, read with Sections 13(1)/16 of the Assam Cattle Preservation (Amendment) Act, she shall be released on pre-arrest bail on executing a bond of Rs. 50,000/-, each 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