

GAHC010038692024



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

Case No. : AB/521/2024

RABI ALAM
S/O LT. AIJ UDDIN
R/O VILL- GERUATI
P.S. KHATOWAL,
DIST. NAGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR A DEKA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 11.03.2024

Heard Mr. A. Deka, learned counsel for the applicant and Mr. R.J. Baruah, learned Addl. Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with Basistha P.S. Case No. 78/2024, under Section 379 of the IPC, read with Section 11(1)(d) of Prevention of

Cruelty to Animal Act, read with Sections 13(1)/16 of Assam Cattle Preservation Act, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicant, namely, Md. Rabi Alam 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 ASI Matleb Ali of Jorabat Outpost on 08.02.2024. The essence of allegation made in the FIR dated 08.02.2024, is that on the intervening night of 08.02.2024 at about 5 a.m., he along with his staff, intercepted one vehicle, bearing Registration No. AS-02-DC-4552 and found 15 numbers of cattle being carried in the said vehicle without any document and the driver of the vehicle, namely, Ariful Islam was apprehended and he failed to produce any document of the said cattle.

4. Mr. Deka, the learned counsel for the applicant submits that the applicant is the owner of the said vehicle, and that he is innocent and no way involved with the offence alleged in the FIR, and that he is 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 vehemently opposed the application on the ground that the cattle were carried in the vehicle without any document, and that investigation is pending for arrest of the other co-accused.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition 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. The case diary indicates that the I.O. has examined some witnesses and also had given the seized cattle in the custody of one Goshala, and that the case is pending for arrest of the other co-accused.

8. Having regards to the submission of learned Advocates of both side and considering the nature and gravity of the offence and punishment prescribed for the same, further custodial interrogation of the applicant seems not to be warranted here in this case and accordingly, this Court is inclined to extend the privilege of pre-arrest bail to the applicant.

9. Accordingly, it is provided that in the event of arrest of the applicant in connection with Basistha P.S. Case No. 78/2024, under Section 379 of the IPC, read with Section 11(1)(d) of Prevention of Cruelty to Animal Act, read with Sections 13(1)/16 of Assam Cattle Preservation Act, 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.

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

11. Case diary be returned.

JUDGE

Comparing Assistant