

GAHC010038732024



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

Case No. : Bail Appln./537/2024

ARIFUL ISLAM
S/O ABDUL KUDDUS R/O VILL- BHAKATGAON P.S.- RUPAHIHAT 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 accused and Mr. R.J. Baruah, learned Addl. Public Prosecutor for the State respondent.

2. This petition, under Section 439 Cr.P.C. is preferred by the accused, namely, Ariful Islam, who has been languishing in jail hazot 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 the Assam Cattle Preservation Act, 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 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 accused submits that the accused was arrested on 18.02.2024 and since then, he has been languishing in jail hazot for last 32 days and that he is ready to cooperate with the investigating agency, and therefore, it is contended to allow the petition.

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 petition on the ground that the accused had carried the cattle 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. Further, it appears that the accused was arrested on 18.02.2024, since then he has been languishing in jail

hazot for last 32 days.

8. Thus, balancing the period of detention with that of the nature and gravity of the offence and the punishment prescribed for the same as well as the progress of investigation, further custodial detention of the accused seems not to be warranted here in this case and accordingly, this Court is inclined to allow the petition. It is provided that on furnishing a bond of Rs. 50,000/- with one surety of like amount, to the satisfaction of the learned CJM, Kamrup(M), Guwahati, the accused be enlarged on bail.

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

10. Case diary be returned.

JUDGE

Comparing Assistant