

GAHC010045982024



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

Case No. : AB/587/2024

ABDUL RAHMAN
S/O ABDUL KADIR, VILL-OUANA, P.S.-RUPAHI, DIST-NAGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. T CHUTIA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 08.05.2024

Heard Mr. T. Chutia, learned counsel for the applicant. Also heard Mr. B.B. Gogoi, learned Addl. Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with Basistha P.S. Case No. 842/2023, under Sections 379/411/34 of the IPC, read with Section 13(1) of the Assam Cattle Preservation Act, read with Section 11(1)(d) of the Prevention of Cruelty to Animal Act, this application under Section 438 Cr.P.C. has been preferred by the applicant, namely, Abdul Rahman, 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 S.I. Bipul Chandra Deka 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, while the informant, along with his staff were attending patrolling duty at the area under Jorabat Out Post, they had intercepted one vehicle, bearing Registration No. NL-01K-7143, at about 4:30 a.m., which was coming from Guwahati side to Byrnihat, Meghalaya, carrying 26 numbers of live cattle, illegally without any documents.

4. Mr. Chutia, learned counsel for the applicant submits that the applicant is the owner of the cattle and he had purchased the same from Rajmai Weekly Animal Market, Sivasagar and that the relevant receipts are being enclosed with this application as Annexure 2 series, from page No. 10 onwards to page No. 61, and that the applicant 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. B.B. Gogoi, the learned Addl. Public Prosecutor has produced the case diary before this Court and submits that the applicant is the owner of the cattle and except that, no other incriminating materials are available against him in the case diary.

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 assistance of Mr. B.B. Gogoi, learned Addl. Public Prosecutor.

7. In view of the materials collected so far in the case diary as well as the progress of investigation and also considering the submission of learned Advocates of both sides, and further considering the Annexure 2 series, the

purchase receipts of the cattle enclosed with the application from page No. 10 to page No. 61, this Court is of the view that custodial interrogation of the applicant, in the interest of investigation, seems to be not warranted here in this case and therefore, this Court is inclined to allow the 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 Sections 379/411/34 of the IPC, read with Section 13(1) of the Assam Cattle Preservation Act, read with Section 11(1)(d) of the Prevention of Cruelty to Animal 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 appear before the Investigating Officer within a period of 10 days from today and also produce all the relevant documents i.e. Annexure 2 series enclosed with the application from page No. 10 to page No. 61 before the Investigating Officer for verification;

(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.

10. Case diary be returned.

JUDGE

Comparing Assistant