

GAHC010046322024



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

Case No. : Bail Appln./646/2024

ABU TAHER
S/O ABU KALAM KHAN
R/O CHMATA PATHAR, P.S. SONAPUR,
DIST. KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. D SARMAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 15.03.2024

Heard Mr. N.J. Dutta, learned counsel for the accused and Mr. B. Sarma, learned Addl. Public Prosecutor for the State respondent.

2. This petition, under Section 439 Cr.P.C. is preferred by the accused, namely, Abu Taher, who has been languishing in jail hazot 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, 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 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 the informant was attending night patrolling duty, he had intercepted one container vehicle, bearing Registration No. NL-01K7143, 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. Dutta, the learned counsel for the accused submits that the accused was arrested on 05.02.2024 and since then, he has been languishing in jail hazot for last 39 days, and that he is no way involved with the offence alleged in the FIR, and his only role was that he received money wrongfully from the cattle smugglers for safely passing cattle with the vehicle to Meghalaya, 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. B. Sarma, learned Addl. Public Prosecutor has produced the case diary before this Court and submits that the I.O. has collected sufficient incriminating materials against the accused, and therefore, Mr. Sarma has opposed the petition.

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. Sarma, learned Additional Public Prosecutor.

7. The case diary indicates that the I.O. has collected some materials in support of the allegation made in the FIR, but, it also appears that the I.O. has achieved substantial progress in the investigation of this case, and that the accused is behind the bar for last 39 days and balancing the same against the nature and gravity of the offence, further custodial detention of the accused seems not to be warranted here in this case, in the interest of investigation, and therefore, 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.

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

9. Case diary be returned.

JUDGE

Comparing Assistant