

GAHC010073512024



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

Case No. : Bail Appln./1037/2024

MOKSIDUL ISLAM
S/O NOOR MOHAMMAD
R/O NIZ DHING, P.S. DHING
DIST.NAGAON, ASSAM
PIN-782123

2: MUSARIKUL ISLAM
S/O ABU TALHA
R/O TATIKATA PATHAR
P.S. MOIRABARI
DIST. MORIGAON
ASSAM
PIN-782126

3: SUWEL AHMED
S/O DILWAR HUSSAIN
R/O DHING P.S. DHING
DIST. NAGAON
ASSAM
PIN-78212

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. N J DUTTA

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

ORDER

Date : 08.04.2024

- 1)** Heard Mr. N. J. Dutta, learned counsel for the petitioners. Also heard Mr. B. B. Gogoi, learned Additional Public Prosecutor for the State respondent.
- 2)** This application under Section 439 of the Code of Criminal Procedure, 1973 has been filed by three numbers of petitioners, namely, (1) Moksikul Islam, (2) Musarikul Islam, and (3) Suwel Ahmed who are detained behind the bars since 02.03.2024 (for the last 37 days) in connection with Basistha Police Station Case No. 131/2024 under Section 120(B)/379/429 of the Indian Penal Code read with Section 13(1)/16 of the Assam Cattle Preservation (Amendment) Act, 2021 read with Section 11(1)(d) of the Prevention of Cruelty to Animal Act, 1960.
- 3)** The gist of the accusation in this case is that on 02.03.2024 one Matlab Ali, ASI of Police, Jorabat Police Outpost had lodged an FIR before the Officer-In-Charge of Basistha Police Station, *inter-alia*, alleging that during mobile patrolling duty on 02.03.2024 at about 8.30pm, one vehicle bearing Registration No. UP21CN 2107 was found carrying cattle illegally at Jorabat area.
- 4)** On search of the said vehicle, 29 numbers of cattle were found being carried in the said vehicle.
- 5)** The present petitioner No.1, who is the driver of the said vehicle and petitioner No.2 and 3 who are the helpers in the said vehicle were apprehended and during enquiry the driver and helper could not produce any document regarding the ownership of the 29 cattle seized from the said vehicle.
- 6)** Learned counsel for the petitioners has submitted that the cattle which

were carried in the said vehicle were legally purchased by one Mujibur Rahman who had approached this court earlier by filing an Anticipated Bail Application being AB Case No. 723/2024, wherein he had produced all the documents of ownership of the said cattles and considering the documents produced by the owner of the cattle he was allowed to go on interim anticipated bail by order dated 18.03.2024.

7) Learned counsel for the petitioners has submitted the document of ownership, cash memo issued by the Office of the East Jorhat Anchalik Panchayat of Jorhat Zila Parishad, whereby the owner Mujibur Rahman has shown to have purchased 29 numbers of cattle.

8) I have considered the submissions made by learned counsel for both the sides and have perused the materials available on record.

9) It appears that the owner of the seized cattle have already been allowed to go on interim anticipated bail by order dated 18.03.2024 passed in AB Case No. 723/2024. It also appears that the present petitioner have annexed the cash memos by which the said owner had purchased the cattle which were recovered from the seized vehicle.

10) It also appears that the petitioners have been detained behind the bars for last 37 days.

11) Considering the period of detention undergone by the present petitioners and the attending circumstances as mentioned herein above as well as considering the fact that owner of the seized cattle has already been given interim protection by this court, this court is of considered opinion that further custodial detention of the present petitioners may not be necessary for fair completion of the investigation of Basistha Police Station Case No. 131/2024.

12) In view of above, the above-mentioned petitioners are allowed to go on

bail of Rs. 30,000/- (Rupees Thirty Thousand only) each with one surety of like amount subject to the satisfaction of the learned Chief Judicial Magistrate, Kamrup (M) with the following conditions:

- i. That the petitioners shall cooperate in the investigation.
- ii. That the petitioners shall not directly or indirectly make any inducement, threat or promise to any person who may be acquainted with the facts of the case, so as to dissuade such person from disclosing such facts of the case before the Investigating Officer.

With the above observation, this bail application is accordingly disposed of.

JUDGE

Comparing Assistant