

GAHC010094692024



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

Case No. : Bail Appln./1360/2024

MD. SAPIUL ISLAM @ BOSHAR
S/ ABDUL RAHMAN
VILL- BHUTIADANGA
P.S. SUKCHAR
DIST. DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. L R MAZUMDER

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

17.05.2024

Heard Mr. A.Z. Ahmed, learned counsel for the accused and Mr. K.K. Das, learned Additional Public Prosecutor for the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused namely, **Md. Sapiul Islam @ Boshar**, who has been languishing in jail hazot, in connection with the **Sukchar P.S. Case No. 19/2024**, under Sections 341/ 323/ 353/ 336/ 427/ 34 of the IPC and read with

Sections 13(1)/16 of the Assam Cattle Preservation Act, for granting bail.

3. The said case has been registered on the basis of one FIR lodged by Dy.S.P. Anshul Sharma, on 21.03.2024. The essence of allegations made in the FIR is that on 20.03.2024, at about 11:30 pm, he has apprehended three persons namely, AHG Azad Sk.; Sahinur Islam; and Boshar; along with 8 - 10 numbers of cow, which were being taken towards international border and on being chased them, they have crossed the stream of Jingiram river towards Meghalaya and from there they have threatened the police staff with dire consequences and also pelted stones on the police party and damaged the vehicle and also caused injuries over his right knee.

4. Mr. Ahmed, learned counsel for the accused submits that the accused was arrested on 06.04.2024, and since then he been languishing in jail hazot for last 42 days. Mr. Ahmed further submits 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. Das, learned Additional 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 that the investigation is still going on and therefore, it is contended to dismiss the petition.

6. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition as well as the documents placed on record and also perused the Case Diary with the assistance of learned Additional Public Prosecutor.

7. It appears that the accused was arrested on 06.04.2024, and since then he been languishing in jail hazot for last 42 days. Further, it appears from the case diary that the I.O. has achieved some progress in the investigation of the

case.

8. Having considered above and also considering the period of detention and balancing the same with nature and gravity of the offences alleged in the FIR, this Court is of the view that further custodial detention of the accused may not be warranted in the interest of investigation.

9. Accordingly, it is provided that on furnishing a bond of Rs. 50,000/- only, with one surety of like amount to the satisfaction of the learned **Chief Judicial Magistrate, South Salmara Mankachar**, the accused be enlarged on bail.

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

11. The case diary be returned.

Comparing Assistant

JUDGE