

GAHC010104602024



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

Case No. : AB/1382/2024

SAKIL @ MD IFTIKAR HUSSAIN
S/O MOZIBOR ROHMAN, R/O VILL- KANAIMARA PT. I, P.S.-SOUTH
SALMARA, DIST-SOUTH SALMARA MANKACHAR, ASSAM, PIN-783135

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. K M HASSAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 20.06.2024

Heard Mr. K. M. Hassan, learned counsel for the petitioner. Also heard Mr. R. J. Boruah, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 438 of the Code of Criminal Procedure, 1973, praying for grant of pre-arrest bail to the accused/petitioner,

who is apprehending arrest in connection with South Salmara P.S. Case No. 37/2024, under Sections 147/148/ 352/353/506/379/411 of the Indian Penal Code, *read with* Section 13(1)/16 Assam Cattle Preservation Act, 2021.

CD received, perused the same and heard both sides.

It is submitted by Mr. K. M. Hassan, learned counsel for the petitioner, that the present petitioner is innocent and he is no way involved in the alleged offence. It is a fact that he has a land near the place of occurrence and at the relevant time of incident, he was busy in cultivating the land. When he heard the gun shot, he ran away from his land and someone might have uttered his name and hence, he is falsely implicated in this case. Further it is submitted that the Section 34 IPC is also not added in this case and hence, there should be a specific involvement of all the accused persons in the offence. Further he submitted that there might have been sufficient progress in the investigation and the accused/petitioner is ready and willing to co-operate the Investigating Officer in further investigation of this case, if he is granted with the privilege of pre-arrest bail.

In this context, Mr. R. J. Boruah, learned Additional Public Prosecutor, has submitted that on the day of incident, the accused petitioner tried to transport 10 numbers of cattle illegally from the Assam border to Meghalaya and when the BSF personnel tried to stop the persons, they gathered there and also called some other villagers and attacked the BSF personnel, on which the BSF personnel had to fire and one accused sustained injury. Accordingly, he submitted that the case is also in the nascent stage of investigation and raised objection in allowing the present bail application.

After hearing the submissions of learned counsels of both sides, I have

also perused the case records and it is seen that there are sufficient incriminating materials collected by the Investigating Officer against the present petitioner showing his involvement in the alleged offence.

In view of above and also considering the nature of offence, I do not find it a fit case to extend the privilege of pre-arrest bail to the present accused/petitioner and accordingly, the same stands rejected.

In terms of above, this interlocutory application stands disposed of.

JUDGE

Comparing Assistant