

GAHC010105142024



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

Case No. : AB/1380/2024

MD. MIRAJUL ISLAM AND ANR
S/O ABDUL MANNAT, R/O VILL- GERUA GAON, P.S.-KHATOWAL, DIST-
NAGAON, ASSAM

2: MD. RABI ALAM
S/O LATE AIJ UDDIN
VILL- GERUATI
P.S.-KHATOWAL
DIST- NAGAON
ASSA

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 MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 20.06.2024

Heard Mr. T. Chutia, learned counsel for the petitioners. 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/petitioners, who are apprehending arrest in connection with Khetri P.S. Case No. 71/2024, under Sections 379/411/34 of the Indian Penal Code, *read with* Section 11(1)(a) (d)(e) of Prevention of Cruelty to Animal Act, 1960 *read with* Section 13(1)/16 of Assam Cattle Preservation (Amendment) Act, 2021.

CD received, perused the same and heard both sides.

It is submitted by Mr. T. Chutia, learned counsel for the petitioners, that the accused/petitioner No.1 is the owner of the Cattle and the accused/petitioner No.2 is the owner of the two vehicles from which the cattle were seized and recovered by Police. He further submitted that after obtaining the interim pre-arrest bail on 29.05.2025, the accused/petitioner already appeared before the Investigating Officer and co-operated in the investigation of this case and both the accused/petitioners also filed their relevant documents before the Investigating Officer and considering the same, the cattle and the vehicles were also released on Zimma in favor of the two accused/petitioners. However, he admitted that the cattle were carried in a cruel manner. He further submitted that the accused/petitioners are ready and willing to co-operate with the Investigating Officer in further investigation of this case, if they are granted with privilege of pre-arrest bail.

In this context, Mr. R. J. Boruah, learned Additional Public Prosecutor, has submitted that it is a fact that both the accused/ petitioners appeared before the Investigating Officer and their statements are also recorded under Section 161 Cr.P.C. and also produced the cattle purchase receipt as well as the documents of the vehicle before the Investigating Officer, but he submitted that, while intercepting the vehicle, neither the cattle purchase receipt nor the

documents of the vehicle could be produced by the accused/petitioners and they obtained the receipts only after getting the interim pre-arrest bail. However, it is submitted that both the accused/petitioners are co-operating the Investigating Officer in the investigation of this case.

Considering the submissions of learned counsels for both sides, materials available in the Case Diary and also the conduct of the accused/petitioners as well as the other aspects of the case, I find that custodial interrogation of the present accused/petitioners may not be necessary for interest of the further investigation. Accordingly, I find it a fit case to extend the privilege of pre-arrest bail to both the accused/petitioners and hence, the order of interim pre-arrest bail granted to the accused/petitioners vide order dated 29.05.2024 is hereby made absolute in same terms and conditions.

With the above observation, the petition stands disposed of.

JUDGE

Comparing Assistant