

GAHC010130152024



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

Case No. : AB/1696/2024

JAHIRUL ISLAM AND ANR
S/O SAIZUDDIN ISLAM, R/O VILL- CHANDIAGAON, P.S.AND DIST-
KOKRAJHAR, ASSAM

2: SIDDIK ALI
S/O BASED ALI
R/O VILL- CHOUTAKI
P.S. AND DIST- KOKRAJHAR
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. M M ZAMAN

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

24.07.2024

Heard Mr. M. M. Zaman, learned counsel for the petitioners. Also heard Mr. B. Sharma, learned Additional Public Prosecutor, Assam, for the State respondent.

This is an application under Section 438 of the Code of Criminal Procedure for grant of pre-arrest bail to the accused/petitioners, who are apprehending arrest in connection with Kokrajhar P.S. Case No. 134/2024, under Sections 380/411/413/34 of the Indian Penal Code *read with* Section 13(1)/16 of the Assam Cattle Preservation Act, 2021 and Section 11(1)(d) of the Prevention of Cruelty to Animals Act.

Case Diary has been received. Perused the same. Heard both sides.

It is submitted by Mr. Zaman, learned counsel for the petitioners, that the present accused/petitioners are innocent and they are no way involved in the alleged offence. However, from the statement made in the F.I.R., it is seen that some allegations are brought against them only on the basis of the statement made by co-accused who got arrested in connection with this case and from whose possession, the cattle were recovered. However, they are ready and willing to co-operate with the I.O. in the further investigation of this case if they are granted with the privilege of pre-arrest bail.

In this context, Mr. B. Sharma, learned Additional Public Prosecutor, has submitted that from the materials available in the Case Diary, it is seen that on the basis of the statement made by the co-accused only, the name of the present accused/ petitioners are brought in the F.I.R. However, he submitted that from the nature of offence as well as the materials available in the Case Diary, there are no ingredients to attract Sections 380/411/413/34 of the Indian Penal Code and accordingly, he submitted that the custodial interrogation of the present accused/petitioners may not be necessary for the interest of investigation.

Considering the submissions of learned counsels for both sides and also considering the entire facts and circumstances of this case, I find it a fit case to extend the privilege of pre-arrest bail to the present accused/petitioners.

Accordingly, it is provided that in the event of arrest of the accused/petitioners, namely, (i) Jahirul Islam & (ii) Siddik Ali, in connection with Kokrajhar P.S. Case No. 134/2024, under Sections 380/411/413/34 of the Indian Penal Code *read with* Section 13(1)/16 of the Assam Cattle Preservation Act, 2021 and Section 11(1)(d) of the Prevention of Cruelty to Animals Act, they shall be enlarged on pre-arrest bail on their executing a bond of Rs. 20,000/- (Rupees twenty thousand) only each with one surety of like amount to the satisfaction of the arresting authority, subject to the following conditions:

- (i) that the petitioners shall appear before the Investigating Officer of the case within a period of 1 (one) week from today;

- (ii) that the petitioners shall fully co-operate with the investigation of the case and shall appear before the Investigating Officer as and when required in connection with the investigation of the aforesaid P.S. Case; and
- (iii) that the petitioners shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the Investigating Officer or tamper with the evidence of the case.

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

JUDGE

Comparing Assistant