

GAHC010186152024



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

**Case No. : AB/2405/2024**

NISAR AHMED  
S/O AJAJ AHMED, VILL- AMBIKAGIRI RAYCHOWDHURI ROAD, P.S.-  
TINSUKIA, ASSAM

VERSUS

THE STATE OF ASSAM  
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

**Advocate for the Petitioner** : MR. T CHUTIA, MS S NASRAT

**Advocate for the Respondent** : PP, ASSAM,

**BEFORE**  
**HON'BLE MR. JUSTICE ROBIN PHUKAN**

**ORDER**

**03.10.2024**

Heard Mr. T. Chutia, learned counsel for the applicant and also heard Mr. P.S. Lahkar, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, is preferred by applicant, namely, Nisar Ahmed, who has been

apprehending arrest in connection with Makum P.S. Case No.68/2023 under Section 120B/333/353/307 IPC, read with Section 11(1)(d) of Prevention of Cruelty to Animals Act, 1960, read with Section 13(1) of the Assam Cattle Preservation Act, 2021, for grant of pre-arrest bail.

3. It is to be noted here that the above-noted case has been registered on the basis of one FIR lodged by one Ramen Sarmah, on 08.06.2023. The essence of allegation, made in the aforesaid FIR is that on 08.06.2023, the informant Ramen Sarmah lodged one FIR with the Makum P.S. stating inter alia amongst others that on 08.06.2023, during the time of night patrolling at Hukanpukhuri road, Tinsukia, at about 4:00 a.m., he had noticed that a 14 wheeler Truck coming from Doomdooma to Tinsukia side in a high speed and also found one Scorpio vehicle and another Hyundai white coloured vehicle, escorting the Truck. Then the patrolling party signaled the Truck to stop and at that time the two escorting vehicle suddenly fled away toward Tinsukia and after conducting search in that Truck, they found 20/25 cow, being carried in the backside of the Truck. On being asked, the driver said that he along with two unknown persons loaded the cow, at a place situated about 30 km east to the spot and carried the same towards Shillong and the persons who were fled away in the 2 nos. of cars, is one Saiful Islam, but he does not know the name of other person. Thereafter, they have apprehended the Truck and the driver and seized the cow being carried in the Truck. Thereafter, the informant came to know that the owner of the Hyundai Aura car is loitering at Makum By-Pass road. Then a Naka checking was conducted by S.I. Rituporna Dutta and his staff and the suspected Hyundai Aura car was coming towards Tinsukia to Makum By-Pass and then Naka checking party tried to stop the car, but the driver of the car instantly increase the speed of the car with an intention to knock down the Naka party and to kill one of the staff, namely, HG Dipankar Saha. As a result of which Dipankar Saha got injuries and he was taken to hospital for treatment.

4. Mr. Chutia, learned counsel for the applicant submits that the name of the applicant find no mention in the FIR and he is also not involved with the offence alleged in the FIR and that he is ready to cooperate with the investigating agency and therefore, it is

contended to allow this application.

5. On the other hand, Mr. P.S. Lahkar, learned Additional Public Prosecutor, Assam, submits that he has received the case diary, and there is no direct material against the present applicant, but some indirect materials are there to show his complicity with the offence alleged and that the I.O. could not collect injury report of the victim and also could not collect the CDR, SDR report of the mobile Nos.9365831201, 7002152787, 8638830875 and also could not ascertain the ownership of the Scorpio vehicle and investigation is going on and therefore, Mr. Lahkar has opposed the petition.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the application and the documents placed on record and also perused the case diary with the assistance of Mr. Lahkar, learned Additional P.P.

7. Admittedly, there is no reference to the name of the present applicant in the FIR, though the driver of the vehicle had given some phone numbers, yet the owners of the same could not be ascertained by the Investigating Officer and the CDR of the said mobile numbers also could not be collected. Further, the injury report of the victim is also not made available, though the occurrence took place more than a year back.

8. Having considered the submission of learned Advocates of both the parties and also considering the progress of investigation as well as the materials collected so far in the case diary, custodial interrogation of the applicant seems to be not warranted here in this case and therefore, this Court is inclined to allow this application.

9. It is provided that in the event of arrest of the applicant, namely, Nisar Ahmed, in connection with Makum P.S. Case No.68/2023 under Section 120B/333/353/307 IPC, read with Section 11(1)(d) of Prevention of Cruelty to Animals Act, 1960, read with Section 13(1) of the Assam Cattle Preservation Act, 2021, he shall be enlarged on pre-arrest bail on his executing a bond of ₹ 50,000/- with one surety of the like amount to the satisfaction of the arresting authority. The above privilege is, however, subject to the following conditions:-

- (i) The applicant shall make himself available for interrogation by the Investigating Officer as and when required;
  - (ii) The applicant shall not make any inducement, threat or promise to any person, directly or indirectly, acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer; and
  - (iii) The applicant shall not leave the jurisdiction of the learned C.J.M., Tinsukia, without prior permission.
10. In terms of above, this anticipatory bail application stands disposed of. Case diary be returned.

**Sd/- Robin Phukan**  
**JUDGE**

**Comparing Assistant**