

GAHC010188242024



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

Case No. : AB/2442/2024

ASHAD ALI
S/O NAYEB ALI MUNSHI
VILL-NILIBARI
P.S. KAJALGAON
DIST. CHIRANG, BTC, ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. A M AHMED, P. GHOSH, B DAS, MRS S RAHANA

Advocate for the Respondent : PP, ASSAM,

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

24/10/2024

Heard Mr. H R A Choudhury, learned Senior counsel assisted by Mr. A M Ahmed, learned counsel for the petitioner and K K Parasar, learned Additional Public Prosecutor, Assam for the State.

2. The petitioner, namely, **Ashad Ali**, son of Nayeb Ali Munshi, resident of Village-Nilibari, P.S. Kajalgaon, District-Chirang, BTC, has filed this application under Section 482 of Bharatiya

Nagarik Suraksha Sanhita, 2023, seeking pre-arrest bail apprehending his arrest in **Kajalgaon P.S. Case No. 89/2024** registered under Sections 303(2)/132/109/62/3(5) BNS, 2023 read with Section 11 (1)(a)(d) of Prevention of Cruelty to Animals Act, 1960 read with Section 13(1) of the Assam Cattle Preservation Act, 2021.

3. As per the FIR of the case dated 10.08.2024 lodged by one ASI of Dangtol Police Outpost under Kajalgaon Police Station that on the nights of 08.08.2024 and 09.08.2024, while a team of police staff from Dangtol Outpost went for night search around 3:30 PM, they witnessed two motorcycles coming from the side of Kajalgaon towards Bongaigaon, but when they were asked to stop, they did not listen and rather tried to attack them with their bikes. Somehow, the police patrolling jumped aside and save their life. They immediately seized the two motorcycles and the accused persons left the motorcycles on the road and ran away. While running away, one of the accused persons, namely, Shariful Islam fell down on the road and sustained injuries on his head, who was apprehended. On being enquired, said Shariful Islam stated that along with him, there are four other persons. Police seized the motorcycle No. AS-19-P-6495 and AS-17-M-9947. Police personnel also noticed that two sacks of bags were tied with rope in the back side of the motorcycles and on opening those sacks, they found 2 nos. of cattle inside in both the sacks tied with rope. Later, the cattle were untied and were also seized.

4. The FIR also discloses that it is suspected that the cattle had been stolen from other place and smuggled in a gruesome manner. Accordingly, said FIR was registered as Dangtol Outpost G.D. Entry No. 175/2024 dated 09.08.2024 which was subsequently registered as Kajalgaon P.S. Case No. 89/2024.

5. Perused the case diary placed before the Court today by Mr. Parasar, learned Additional Public Prosecutor, Assam.

6. It is seen that both the motorcycles and the cattle have been recovered.

7. Considering the materials available in the case diary, the Court is of the view that custodial detention of the petitioner, namely, **Ashad Ali** is not warranted to investigate the said Kajalgaon P.S. Case No. 89/2024. As such, this pre-arrest bail application of the petitioner is accepted.

8. Accordingly, in the event of arrest of the petitioner, namely, **Ashad Ali**, in said **Kajalgaon P.S. Case No. 89/2024** registered under Sections 303(2)/132/109/62/3(5) BNS, 2023, he shall be released on bail on furnishing a bail bond of Rs.30,000/- with 2 (two) local sureties of the like amount, to the satisfaction of the arresting authority, subject to the conditions that the petitioner - **(i)** shall appear before the concerned Investigating Officer of said Kajalgaon P.S. Case No. 89/2024 **on or before 30.10.2024** and thereafter, as and when he is required for necessary investigation of the case; **(ii)** shall not leave the territorial jurisdiction of said Kajalgaon Police Station, without obtaining prior written permission from the concerned I/O of the case; **(iii)** shall not hamper with the investigation, or tamper with the evidence of the case and **(iv)** 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 any police officer.

9. Any violation of any of the aforesaid terms and conditions by the petitioner, Ashad Ali, pre-arrest bail granted to him in said Kajalgaon P.S. Case No. 89/2024 shall stand automatically vacated.

10. Accordingly, this pre-arrest bail application stands allowed to the extent above.

11. Return the case diary.

JUDGE

Comparing Assistant