

GAHC010194892024



2024:GAU-AS:12135

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

Case No. : AB/2538/2024

ASHAR ALI SHEIKH @ ASHAR ALI
S/O AHAD ALI SK.
R/O KISMAT HASDAHA PART-IV,
P.O. KISMAT HASDAHA
P.S.DHUBRI,
DIST. DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR S RAHMAN, MS. S PHUKAN

Advocate for the Respondent : PP, ASSAM,

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

02/12/2024

Heard Mr. S Rahman, learned counsel for the petitioners and Mr. M P Goswami, learned Additional Public Prosecutor, Assam for the State.

2. The petitioner, namely, **Ashar Ali Sheikh @ Ashar Ali**, son of Ahad Ali Sk., resident of Kismat Hasdaha Part-IV, P.S. Dhubri, District-Dhubri, has filed this application under Section 482

of BNSS, 2023, seeking pre-arrest bail apprehending his arrest in **Golakganj P.S. Case No. 160/2024** registered under Sections 13(1) of Assam Cattle Preservation Act, read with Section 11 of Prevention of Cruelty to Animals Act, 1960.

3. As per the FIR dated 13.07.2024, on the basis of a specific information police personnel from Golakganj Police Station found that a Swift Desire vehicle bearing registration No. AS-01-AV-0099 was detained by Village Defence Party at West Gaikhowa Part-II from which 4 nos. of cattle smuggler managed to flee away and the said Swift Desire vehicle was found to be loaded with 5 nos. of cattle in it that were tied up with rope. Accordingly, the said Swift Desire vehicle and 5 nos. of the cattle were seized in presence of the independent witnesses. As such, the concerned Sub-Inspector of Police of Golakganj Police Station lodged the FIR on 13.07.2024 before the Officer-in-Charge of Golakganj Police Station alleging that the petitioner and two others are the smugglers of cattle, smuggling and transporting the cattle from West Bengal to Bangladesh by using deserted road of Nalia, Gaikhowa and the river path of Indo-Bangla border areas.

4. Perused the case diary placed before the Court by Mr. Gowami, learned Additional Public Prosecutor, Assam.

5. Mr. Gowami, learned Additional Public Prosecutor, Assam from the case diary submitted that during the course of investigation of the case, one of the accused was arrested in the case who has also implicated the petitioner and other accused persons of the case pertaining to their involvement in smuggling and transporting of stolen cattle to Bangladesh.

6. The FIR indicates that during preliminary investigation, the petitioner and other two accused persons, named in the FIR are strongly suspected to be involved in such crime.

7. Considering the materials available in the case diary, the recovery of 5 nos. of stolen cattle and the Swift Desire vehicle that were seized in presence of independent witnesses, the Court is of the view that custodial detention of the petitioner, named above, is not warranted to investigate the said Golakganj P.S. Case No. 160/2024. As such, this pre-arrest bail application of the petitioner is accepted.

8. Accordingly, in the event of arrest of the petitioner, namely, **Ashar Ali Sheikh @ Ashar Ali**, in said **Golakganj P.S. Case No. 160/2024** registered under Sections 13(1) of Assam

Cattle Preservation Act, read with Section 11 of Prevention of Cruelty to Animals Act, 1960, he shall be released on bail on furnishing a bail bond of Rs.40,000/- with 2 (two) local sureties each of the like amount, one of which shall be a Government employee, either State or Central Government, to the satisfaction of the arresting authority, subject to the conditions that the petitioner - **(i)** shall appear before the concerned Investigating Officer of said Golakganj P.S. Case No. 160/2024 **on or before 07.12.2024** and thereafter, as and when he is required for necessary investigation of the case; **(ii)** shall not leave the territorial jurisdiction of said Golakganj 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 them from disclosing such facts to the Court or to any police officer.

9. Violation of any of the aforesaid terms and conditions by the petitioner, **Ashar Ali Sheikh @ Ashar Ali**, pre-arrest bail granted to him in said **Golakganj P.S. Case No. 160/2024** 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