

GAHC010203992024



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

Case No. : AB/2612/2024

RAYAZ ALI AND ANR
S/O CHALIMUDDIN AHMED, R/O UTTAR MANDAKATA, P.S. BAIHATA
CHARIALI, DISTRICT KAMRUP, ASSAM

2: MOJAMIL ALI

S/O MAHAMMAD ALI
R/O HABIBHANGA
P.O. KALAIGAON
P.S. KALAJHAR
DISTRICT-UDLAGURI
ASSAM
PIN 784521

MOB. 98640 2709

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR A K AHMED, MS P KAKATI, MS F PARBIN

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 13.11.2024

Heard Mr. A.K. Ahmed, learned counsel for the petitioners. Also

heard Mr. M.P. Goswami, learned Additional Public Prosecutor for the State of Assam.

2. By this petition filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the petitioners, namely, **Rayaz Ali and Mojamil Ali**, have prayed for granting pre-arrest bail, apprehending arrest in connection with Jalukbari P.S. Case No. 480/2024 under Section 303(2)/317(2) of BNS, 2023 r/w Section 11 of Prevention of Cruelty to Animals Act, 1960 and r/w Section 13(1) of Assam Cattle Preservation Act, 2021.

3. Mr. Ahmed, learned counsel for the petitioners submits that the petitioner No. 2 namely Mojamil Ali has appeared before the Investigating Police Officer as per direction of this Court and his statement has already been recorded after he was granted interim protection. He has not misused the liberty granted to him; rather, he co-operates with the investigation of the case. Therefore, the privilege of pre-arrest bail granted to the petitioner No. 2 may be made absolute.

4. Mr. Goswami, learned Additional Public Prosecutor for the State submits that the petitioner No.2 may appear before the investigating officer as and when called for. It is also submitted that the statement of petitioner No.2 has already been recorded by the investigating officer.

5. I have considered the submission made by the learned counsel for the parties and also perused the case diary.

6. It appears that the petitioner No. 2 has not misused the liberty granted to him while availing interim protection. It is directed to the petitioner No. 2 to appear before the investigating officer as and when called for.

7. Considering all, this Court is of the view that the petitioner No. 2 deserves to be granted the privilege of pre-arrest bail.

8. Accordingly, the interim protection granted to the petitioner, Mojamil Ali, vide order dated 27.09.2024, is made absolute on the same terms and conditions, as reflected.

9. In regard to the petitioner No. 1, the learned counsel for the petitioner No. 1 submits that he had purchased the said cattle from Banglagarh Animal Market, Mangaldai on 20.09.2024 which was seized by the police at the time of incident. In support of his submission, the learned counsel for the petitioner No. 1 has produced some cattle purchase receipts. Considering the nature of the offence, learned counsel for the petitioner No. 1 prays that the benefit of pre-arrest bail may be extended to the petitioner No. 1.

10. Mr. Goswami, the learned Additional Public Prosecutor for the State has produced the case diary and submits that petitioner No. 1 is a habitual offender. As per case diary, the petitioner No. 1 has been involved in the illegal smuggling of cattle from one state to another, and particularly to other countries like Bangladesh as well. There is sufficient incriminating materials available in the case diary against the petitioner as such, he has prayed that the benefit of pre-

arrest bail may not be considered to the petitioner No. 1.

11. I have considered the submissions made by the learned counsel for the parties. I have also perused the case diary.

12. Considering the materials available in the case diary as well as the allegation of illegal trafficking of cattle for a longtime, this Court is not inclined to grant the privilege of pre-arrest bail to the petitioner No.1. Accordingly, prayer of the petitioner No.1 is rejected. The petitioner No. 1 Rayaz Ali is directed to surrender before the court of the jurisdictional Magistrate or the investigating officer to facilitate the follow-up investigation.

13. The pre-arrest bail application stands disposed of.

14. Return the case diary.

JUDGE

Comparing Assistant