

GAHC010218422024



2024:GAU-AS:11318

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

Case No. : Bail Appln./3232/2024

JEHERUL ALI AND 2 ORS
S/O FARAJ ALI
VILL- DHARAMPUR
P.S. ALUPOTI CHAR
DIST. BARPETA
ASSAM

2: MAINUL ALI
S/O AKBAR ALI
VILL- SATAGAON
NEAR GORAIMARI TELDIPU
P.S. TARABARI
DIST. BARPETA
ASSAM

3: NAZARUL HAQUE
S/O LATE KHAIRUL HAQUE
VILL- RAMPUR
BAMUNBARI
DAULHAL
P.S. MUKALMUA
DIST. NALBARI
ASSAM
VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PP
ASSAM

Advocate for : MD B ISLAM

Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK**

ORDER

20.11.2024

Heard Mr. B Islam, learned counsel for the petitioners and Mr. K K Parashar, learned Additional Public Prosecutor, Assam, for the State.

2. By this application filed under Section 483 BNSS, 2023, the petitioners, namely, (i) **Jeherul Ali**, son of Faraj Ali, resident of village-Dharampur, P.S.-Alupoti Char, District-Barpeta; (ii) **Mainul Ali**, son of Akbar Ali, village-Satagaon, P.S.-Tarabari, District-Barpeta and (iii) **Nazarul Haque**, son of late Khairul Haque, resident of village-Rampur, Bamunbari, Daulhal, P.S.-Mukalmua, District-Nalbari, are praying for their bail in **Jalukbari Police Station Case No. 504/2024** corresponding to G.R. No. 5874/2024, registered under Sections 303(2)/317(2)/3(5) of BNS, 2023 read with Sections 11/(1)(a)(d)(c) of the Prevention of Cruelty to Animal, Act, 1960 read with Section 13(1) of Assam Cattle Preservation (Amendment) Act, 2021, wherein they were arrested on 05.10.2024 and are in custody since then.

3. As per the FIR dated 05.10.2024 lodged by the informant/complainant, Sub-Inspector of Police, Jalukbari Outpost, the case is that on 04.10.2024 on receipt of reliable information that cattle smugglers are smuggling cattle in a Truck bearing Registration No. AS-26-C-9024 from Barpeta, moving towards Meghalaya via Barpeta-Jorabat road, GD Entry No. 71 dated 04.10.2024 was made and thereafter, on reaching the relevant place police personnel intercepted the said truck and recovered 20 Nos. of cattle from the said truck that were being carried in a tiny space inside the truck without giving any food and water. As such, the petitioner No. 1, the driver of the vehicle and the petitioner No. 2, the helper of the vehicle were asked to furnish the relevant documents, which they failed to produce. As such, they were suspected to be carrying stolen cattle and smuggling those out from Barpeta to some other place. When the petitioner Nos. 1 & 2 were apprehended, the petitioner No. 3

approached the complainant of the case and claiming himself to be the owner of the said seized vehicle, tried to bribe the complainant. For that reason, the petitioner No. 3 was also apprehended and Rs. 26,820/- in denominations of 500, 100, 50 and 20 were recovered from his possession. All the three petitioners were accordingly arrested on 05.10.2024 and since then, they are in custody.

4. Perused the case diary along with the report of the concerned Veterinary Officer of Azara, Pandu, which shows that out of the 20 Nos. of cattle, 7 cattle were found to be in bad health.

5. Case diary reveals that the petitioner No. 1, driver of the seized truck and the petitioner No. 2, the helper of the seized truck carried those 20 Nos. of cattle as been handed over to them by the petitioner No. 3 for its transportation to Meghalaya.

6. Considering the materials in the case diary and the period of detention in custody since 05.10.2024, the Court is of the view that further custodial detention of the petitioners, namely, (i) **Jeherul Ali**; (ii) **Mainul Ali** and (iii) **Nazarul Haque**, in said Jalukbari Police Station Case No. 504/2024 is not warranted for investigation of the said case. As such, this bail application of the petitioners in said Jalukbari Police Station Case No. 504/2024 is accepted.

7. Accordingly, the petitioner, namely, (i) **Jeherul Ali**; (ii) **Mainul Ali** and (iii) **Nazarul Haque**, be released on bail in said Jalukbari Police Station Case No. 504/2024 on furnishing bail bond of Rs. 40,000/- each, 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 learned Chief Judicial Magistrate, Kamrup (Metro), subject to the conditions that the petitioners, named above —

i) shall appear before the concerned Investigating Officer of said Jalukbari Police Station Case No. 504/2024 during office hours, as and when they are required for necessary investigation of the case;

ii) shall not leave the territorial jurisdiction of Jalukbari Police Station, without obtaining prior written permission from the concerned Investigating Officer of the case;

iii) shall not hamper with the investigation, or tamper with the evidence of the case;

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 and;

v) shall not involve themselves in any criminal activities in future.

8. Any violation of the aforesaid terms and conditions by the petitioners, namely, **(i) Jeherul Ali; (ii) Mainul Ali** and **(iii) Nazarul Haque**, the bail granted to them in said Jalukbari P.S. Case No. 504/2024 shall stand automatically vacated.

9. This bail application accordingly stands allowed.

10. Return the Case Diary herewith.

JUDGE

Comparing Assistant