GAHC010223152023

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

Case No. : AB/3431/2023

ABU HANIFA
S/O AJIM UDDIN,
VILL.- JARATHANI, P.O.- TELIA SAPARI, NAGAIN, ASSAM.

VERSUS

THE STATE OF ASSAM
REP. BY P.P., ASSAM.

Advocate for the Petitioner : MR I AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 26.04.2024

Heard Mr. I. Ahmed, learned counsel for the applicant. Also heard Ms. N. Das, learned Addl. Public Prosecutor for the State respondent.

2. This application under Section 438, Cr.P.C., is preferred by the petitioner, namely, Abu Hanifa, who has been apprehending arrest in connection with Sonapur P.S. Case No. 201/2023, under Sections 120B/379/411 of the IPC read

with Sections 11(a)(b)(d) of the Prevention of Cruelty to Animal Act, read with Section 13(1)/14 of the Assam Cattle Preservation Act, for grant of pre-arrest bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by S.I. Surajit Sarkar of Sonapur P.S. on 18.09.2023. The essence of allegation made in the aforesaid FIR is that acting on a tip off the informant and other staff have apprehended one Truck, bearing Registration No.AS-23BC-5299, at Nazirakhat Toll Gate and during search of the vehicle, they have found 60 nos. of cattle, being carried without any valid document and in a very cruel and ruthless manner and on being asked the driver failed to produce any valid document and they have also apprehended one Toyota Glanza vehicle, bearing Registration No.AS-01FQ-7843, along with three persons, who were involved in passing the said Truck by keeping a watch on the police vehicle and the names of the culprits are Sarif Ahmed, Abidur Rahman, Atabur Rahman and Gulzar Hussain.

4. Mr. Ahmed, learned counsel for the applicant submits that the applicant had been granted the privilege of interim pre-arrest bail, vide order dated 11.10.2023, and pursuant to the said order, he had also appeared before the I.O. and his statement has also been recorded, and since he has been cooperating with the investigating agency and his name has not been mentioned in the FIR and no way involved with the offence alleged in the FIR, and therefore, a contention is being made that the interim order dated 11.10.2023, may be made absolute in the same terms and conditions.

5. On the other hand, Ms. N. Das, the learned Addl. Public Prosecutor submits that she has not received the case diary, but as per her instruction, the I.O. has laid charge-sheet, being charge-sheet No. 265/2023, dated 30.12.2023,

under Sections 379/411 of the IPC read with Sections 11(a)(b)(d) of the Prevention of Cruelty to Animal Act, read with Section 13(1)/14 of the Assam Cattle Preservation Act.

6. In view of the submission of learned Advocates of both sides, this Court is inclined to dispose of this application by directing the applicant to appear before the learned Court below on or before 13.05.2024, and to apply for regular bail and in the event of such an application, the learned Court below shall consider the same in accordance with law.

7. Till then, interim order dated 11.10.2023 shall stand extended.

JUDGE

Comparing Assistant