

GAHC010238072023



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

Case No. : AB/3582/2023

SAFIQUL ISLAM
S/O BADSHA MIYA
R/O VILL- PUTHIKHAITY
P.S. RUPAHIHAT
DIST. NAGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MS. G BORAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

23.02.2024

Heard Ms. L. Boruah, learned counsel appearing on behalf of Ms. G. Borah, learned counsel for the applicant and also heard Ms. A. Begum, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. Apprehending arrest in connection with Basistha P.S. Case No.399/2023, under Section 379/411/429/34 IPC, this application under Section 438 Cr.P.C. is preferred by applicant, namely, Safiquil Islam, 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 one Kapil Pathak, S.I. of Police, Jorabat Out Post, on 11.07.2023. The essence of allegation made in the aforesaid FIR is that during Naka checking on 11.07.2023, at about 4:00 a.m., he had apprehended one Bolero vehicle, bearing Registration No.AS-01QC-5717 and recovered 2 nos. of live cattle and 10 nos. of dead cattle and apprehended the driver, namely, Ashikul Islam, who could not produce any document for carrying the cattle in the vehicle. Thereafter, at about 6:00 a.m., he intercepted another 12 wheeler Truck, bearing Registration No.NL-02K-3695 and found 14 nos. of live cattle and one dead cattle being carried in the said vehicle without any document and apprehended driver Habibur Islam and handyman Nur Mohammad and at about 8:00 a.m., they have apprehended another 12 wheeler Truck, bearing Registration No.AS-23CC-0304 carrying 24 nos. of live cattle without any legal document and apprehended the driver of the vehicle, namely, Faruk Abdulla.

4. Ms. Boruah, learned counsel for the applicant submits that the applicant was granted the privilege of interim pre-arrest bail by this Court vide order dated 17.10.2023, and pursuant to the said order, he had appeared before the I.O. and cooperating with the investigating agency and therefore, a contention is being made to make the interim order dated 17.10.2023, absolute, in the same terms and conditions.

5. On the other hand, Ms. A. Begum, learned Additional Public Prosecutor, Assam, submits that she has not received the case diary, but as per her instruction, the I.O. has completed investigation and submitted charge-sheet, being Charge-Sheet No.303/2023, under Section 379/411/429/34 IPC, read with Section 11(1)(d) of the Prevention of Cruelty to Animals Act, 1960, read with Section 13(1)/16 of Assam Cattle Preservation Act, 2021.

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 **13.03.2024**, and to apply for regular bail and in the event of filing such an application, the learned Court below shall consider the same in accordance with law. Till then, interim order dated 17.10.2023, stands extended.

7. In terms of above, this anticipatory bail application stands disposed of.

Sd/- Robin Phukan
JUDGE

Comparing Assistant