

GAHC010239892024



2024:GAU-AS:11971

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

Case No. : AB/3011/2024

SAJARUL HAQUE AND 3 ORS.
S/O AYUB ALI
R/O VILL- PATUAKATA,
P.S. MIKIRBHETA,
DIST. MORIGAON

2: NUR ALAM
S/O AYUB ALI
R/O PATUAKATA
PS MIKIRBHETA
DIST. MORIGAON

3: EASIQUL ALI
S/O HUSSAIN ALI
R/O VILL- TATIKATA PATHAR
P.S. MOIRABARI
DIST. MORIGAON

4: SARIFUDDIN ALI
S/O FAKARUDDIN ALI
R/O VILL AND P.O. DANDUA
P.S. AND DIST. MORIGAO

VERSUS

THE STATE OF ASSAM
REPRESENTED BY LD. PP, ASSAM

Advocate for the Petitioner : MR. R ALI, MR. T CHUTIA, R L CHUTIA

Advocate for the Respondent : PP, ASSAM,

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

29.11.2024

Heard Mr. T. Chutia, learned counsel of the petitioner. Also heard Mr. M. P. Goswami, learned Additional Public Prosecutor for the State respondent.

This application is filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, praying for grant of pre-arrest bail to the accused/petitioners in connection with Mikirbheta P.S. Case No. 138/2024, registered under Section 303(2) of the BNS, *read with* Section 11(1) of the Prevention of Cruelty to Animals Act, 1960.

The Case Diary has been received and I have perused the same.

The learned counsel for the petitioners, Mr. Chutia, has submitted that the present petitioners are innocent and they not at all involved in the alleged offence. He further submitted that the prime accused, along with the co-accused, has already been arrested in connection with this case. Additionally, he submits that the petitioners are only involved in the purchase and sale of cattle from a registered market, in accordance with the guidelines set forth by the Assam Cattle Preservation Act, 2021. He also submitted that no permission is required to carry cattle from the registered market for the purpose of sale or purchase, and similarly, no permission is needed for carrying cattle for grazing purposes. He further submits that the petitioners are not FIR named person, but there is an apprehension of arrest in connection with this case and accordingly,

he prays for the grant of pre-arrest bail to the petitioners. The petitioners are ready to co-operate with the Investigating Officer (IO) in the further investigation of the case, if the same is allowed.

In this regard, Mr. Goswami, learned Additional Public Prosecutor, submits that there is sufficient incriminating material available against the petitioners. During the investigation, it was revealed that the petitioners are involved with the prime accused. He further submits that this is an organized crime committed by a group that conceals vehicles along with stolen cattle if any members are apprehended by the police. He submits that further custodial interrogation is necessary to unearth more facts about the case and to identify the entire conspiracy. Thus, he accordingly raised objection, submitting that this is not a fit case to grant the privilege of pre-arrest bail to the petitioners. Further, he submits that during the investigation, it was revealed that the stolen cattle and the vehicles are in the custody of these petitioners.

In addition to his submissions, he relies on the decision passed by the Hon'ble Supreme Court in the case of **Indresh Kumar vs. The State of Uttar Pradesh & Anr.**, reported in 2022 Livelaw (SC) 610, wherein, it has been held that "the statements under Section 161 of Cr.P.C. may not be admissible in evidence, but are relevant in considering the *prima facie* case against an accused in an application for grant of bail in case of grave offence".

After hearing the submissions made by the learned Advocates of both sides, as well as on perusal of the Case Diary and considering the nature of the case, I am of the view that this is not a fit case in which the privilege of pre-arrest bail can be granted to the accused/petitioners at this stage. Accordingly, the same stands rejected.

In view of above, this Anticipatory Bail application stands disposed of.

Case Diary be returned.

JUDGE

Comparing Assistant