

GAHC010240852024



2024:GAU-AS:12118

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

Case No. : Bail Appln./3482/2024

RABBEL AL AMIN AND 3 ORS.
S/O RAFIQUUL ISLAM
VILL- HAHCHARA
P.S. BARPETA
DIST. BARPETA, ASSAM
PIN-781311

2: SADDAM HUSSAIN
S/O RAIK ALI
VILL- KHUNGRA
P.S. TARABARI
DIST. BARPETA
ASSAM
PIN-781305

3: SUNNY MARAK

S/O LATE NIKHAR CH. MARAK
VILL- 15 MILE
P.S NONGPOH
DIST. RI-BHOI

MEGHALAYA
PIN- 793101

4: JYOTISH KRO
S/O LATE GAJEN KRO
VILL- 13 MILE

P.S. NONGPHO
DIST. RI-BHOI

MEGHALAYA
PIN- 79310

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. F A HASSAN,

Advocate for the Respondent : PP, ASSAM,

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

02/12/2024

Heard Mr. S C Biswas, learned counsel for the petitioners and Mr. B Sarma, learned Additional Public Prosecutor, Assam for the State respondent.

2. Petitioners, namely, **(i) Rabbel Al Amin**, son of Rafiqul Islam, resident of Village-Hahchara, Police Station-Barpeta, District-Barpeta, **(ii) Saddam Hussain**, son of Faik Ali, resident of Village-Khungra, Police Station-Tarabari, District-Barpeta, **(iii) Sunny Marak**, son of Late Nikhar Ch. Marak, resident of Village-15th Mile, Police Station-Nongpoh, District-Ri-Bhoi, Meghalaya and **(iv) Jyotish Kro**, son of Late Gajen Kro, resident of Village-13th Mile, Police Station-Nongpoh, District-Ri-Bhoi, Meghalaya have filed this application under Section 483 BNSS, 2023, praying for their bail in **Basistha Police Station Case No. 800/2024** under Sections 303(2) BNS, 2023 read with Section 11(1)(d) of the Prevention of Cruelty to Animals Act, 1960 read with Section 13(1)/16 of the Assam Cattle Preservation Act, 2021 corresponding to G.R. No. 6624/2024, in which they were arrested on 08.11.2024 and are in custody since then.

3. As per the FIR dated 08.11.2024, the case is that on the night of 07.11.2024 while doing night patrolling duty in the Jorabat Outpost area on receipt of specific information from source that one vehicle loaded with live cattle was coming from Barpeta through Guwahati side and the said cattle loaded vehicle was escorted safely by some cattle smuggler with a Swift Desire vehicle. The same was entered as Jorabat Outpost G.D. Entry No. 122 dated 07.11.2024. Around 02:30

am on the intervening night of 07.11.2024 and 08.11.2024, the said Swift Desire vehicle followed by the cattle loaded vehicle were found coming from Guwahati side towards Meghalaya and both the vehicles were intercepted near Jorabat Outpost. While the Bolero Pickup vehicle bearing registration No. AS-01-QC-6402 was searched, it was found with 13 nos. of live cattle tied on their legs and on being enquired driver of the said Bolero vehicle and its helper, namely, Ibrahim Ali and Ashraful Ali, respectively could not place any valid documents relating to those live cattle and also the requisite documents of carrying cattle that were carried atrociously in that vehicle. On enquiry, the petitioners informed police that they were carrying those live cattle from Barpeta to Byrnihat, Meghalaya and that their said Bolero Pickup vehicle with the cattle was escorted by the Swift Desire vehicle bearing registration No. AS-01-BG-9260 that was observing the movements of police, naka checking etc. on the road and was guiding them for their movement to Byrnihat, where they were to hand over those cattle to some persons known to the persons of the said escort vehicle.

4. During the search and inspection of the said Bolero vehicle, police personnel found that there was hardly any space in the said vehicle to carry 13 nos. of live cattle which were tied in their legs.

5. After their search in the said Bolero Pickup vehicle, the complainant and his team from Jorabat Outpost enquired the two persons of the said Swift Desire vehicle bearing registration No. AS-01-BG-9260 and found Rabbel Alamin and Saddam Hussain, who were found to be cattle smuggler for a long time. On being enquired, both Rabbel Alamin and Saddam Hussain (petitioner Nos. 1 and 2 herein) admitted that two receiver of those live cattle coming to Jorabat from Byrnihat with a Ford vehicle bearing registration No. ML-10-C-0062 to receive those cattle from the Bolero Pickup vehicle bearing registration No. AS-01-QC-6402. After sometime, the said Ford vehicle reached Jorabat from Byrnihat and the police patrolling staff intercepted the Ford vehicle and apprehended the two suspected stolen cattle receiver namely, Sunny Marak and Jyotish Kro (petitioner Nos. 3 and 4 herein). Thereafter, the complainant along with the police team brought the two petitioners, the two occupants of said Swift Desire vehicle and the two occupants of said Ford vehicle, named above, along with those three vehicles and the 13 nos. of live cattle to the Jorabat Outpost and then to the Basistha Police Station as Jorabat Outpost is under the jurisdiction of Basistha Police Station.

6. Accordingly, the complainant, Sub-Inspector of Police Jorabat Outpost on 08.11.2024 filed

the FIR of the case which was accordingly registered as Basistha P.S. Case No. 800/2024.

7. The petitioners, i.e., the two occupants of the Swift Desire vehicle as well as the two occupants of the Ford vehicle, and the driver and the helper of said Bolero Pickup vehicle, named above, were arrested on 08.11.2024 and produced them before the learned Chief Judicial Magistrate, Kamrup (Metro), Guwahati on 09.11.2024.

8. According to the petitioners, they are no way connected with any kind of theft of cattle or transportation of stolen cattle to various places inside and outside of the State and that they have been falsely implicated in the case.

9. It is also submitted by the petitioners that they shall comply with any such terms and conditions that may be imposed upon them by the Court on releasing them on bail in said Basistha P.S. Case.

10. Mr. Sarma, learned Additional Public Prosecutor, Assam by placing the case diary submitted that the petitioners herein are habitual offenders and that they are in the trade of smuggling of cattle from various places transporting it to Meghalaya and then to Bangladesh secretly and in illegal manner since long.

11. From the case diary, Mr. Sarma, placed the relevant information so far collected by the concerned Investigating Officer during the short period of investigation.

12. Perused the case diary placed before the Court by Mr. Sarma, learned Additional Public Prosecutor, Assam and found that in an organized manner large number of persons are involved in smuggling and transporting cattle to Meghalaya and then to Bangladesh in special designed truck and other vehicles by firmly sticking hooks on the body in such a way that cattle can be transported without even notice by others treating those cattle in cruel manner.

13. Finding sufficient incriminating materials against the petitioners and their involvement in the organized crime of smuggling and illegal trade of cattle as well as their illegal transportation within the State and outside the State, the Court is of the view that their detention since 08.11.2024 cannot be considered for bail of the petitioners, named above, in said Basistha P.S. Case as the investigation is still going on and further, some more accused persons in the case are yet to be apprehended.

14. Considering the above, this bail application of the petitioners, **(i) Rabbel Al Amin**, son

of Rafiqul Islam, **(ii) Saddam Hussain**, son of Faik Ali, **(iii) Sunny Marak**, son of Late Nikhar Ch. Marak, and **(iv) Jyotish Kro**, son of Late Gajen Kro, in **Basistha Police Station Case No. 800/2024** corresponding to G.R. No. 6624/2024, stands rejected.

15. Return the case diary herewith.

JUDGE

Comparing Assistant