

GAHC010249632024



2024:GAU-AS:12433

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

Case No. : AB/3105/2024

ABUL HASIM AND ANR
S/O LATE ABDUL ALI
VILL-NO. 1 BHATIAKHALI
P.S. AMBAGAN
DIST. NAGAON, ASSAM

2: AJIBUR RAHMAN
S/O ABDUR RAHIM
VILL- GERUA GAON

P.S. KHATOWAL
DIST. NAGAON
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PP, ASSAM

Advocate for the Petitioner : MR. N UDDIN, MS. A AKHTAR, MR S K CHHETRY, MR. M ISLAM

Advocate for the Respondent : PP, ASSAM,

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

09/12/2024

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

2. The petitioners, namely, **(i) Abul Hasim**, son of Late Abdul Ali, resident of Village-No. 1 Bhatiakhali, P.S. Ambagan, District-Nagaon and **(ii) Ajibur Rahman**, son of Abdur Rahim, resident of Village-Gerua Gaon, P.S. Khatowal, District-Nagaon, has filed this application under Section 482 of BNSS, 2023, seeking pre-arrest bail apprehending their arrest in **Basistha P.S. Case No. 722/2024** registered under Sections 303(2) of BNS, 2023 read with Section 11(1)(d) of Prevention of Cruelty to Animals Act, 1960 read with Section 13(1)/16 of Assam Cattle Preservation Act, 2021.

3. As per the FIR dated 13.10.2024, police personnel from Jorabat Outpost under Basistha Police Station around 9:00 PM intercepted a truck bearing registration No. AS-02-CC-8050 carrying 28 nos. of cattle on it in a cruel manner. After intercepting the said truck, its driver and helper failed to place any valid document pertaining to the ownership of those 28 nos. of cattle. As such, police personnel from Jorabat Outpost came to the conclusion that the driver and the helper of the said seized truck tried to smuggle those 28 nos. of the cattle to Byrnihat, Meghalaya via Jorabat. The 28 nos. of cattle along with the truck bearing registration No. AS-02-CC-8050 were seized and its driver and helper were also apprehended.

4. Petitioners submitted that they are the owners of those 28 nos. of cattle seized from the said truck on 13.10.2024 specified in the FIR of the case.

5. It is also submitted by Mr. Uddin, learned counsel for the petitioners that on their approach in Petition No. 4356/2024, the learned Sub-Divisional Judicial Magistrate No. II, Kamrup (Metro), Guwahati by order dated 05.11.2024 allowed zimma of those 28 nos. of cattle seized in connection with Basistha P.S. Case No. 722/2024. It is also stated that the petitioners could not take zimma of those 28 nos. of cattle as they are in the apprehension that if they appear to take zima of those seized cattle, they will be arrested in said Basistha P.S. Case No. 722/2024.

6. Perused the case diary placed before the Court by Mr. Parashar, learned Additional Public Prosecutor, Assam.

7. From the perusal of the case diary and the note of the Investigating Officer, it is seen that during investigation of the case, petitioners have been found to be the owners of those 28 nos. of live cattle seized in connection with Basistha P.S. Case No. 722/2024 from the said truck on 13.10.2024.

8. Considering the materials available in the case diary, the Court is of the view that custodial detention of the petitioners, named above, is not warranted to investigate the said Basistha P.S. Case No. 722/2024. As such, this pre-arrest bail application of the petitioners is accepted.

9. Accordingly, in the event of arrest of the petitioners, namely, **(i) Abul Hasim** and **(ii) Ajibur Rahman**, in said **Basistha P.S. Case No. 722/2024** registered under Sections 303(2) of BNS, 2023 read with Section 11(1)(d) of Prevention of Cruelty to Animals Act, 1960 read with Section 13(1)/16 of Assam Cattle Preservation Act, 2021, they shall be released on bail on furnishing a bail bond of Rs.35,000/- 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 arresting authority, subject to the conditions that the petitioners - **(i)** shall appear before the concerned Investigating Officer of said Basistha P.S. Case No. 722/2024 **on or before 16.12.2024** and thereafter, as and when they are required for necessary investigation of the case; **(ii)** shall not leave the territorial jurisdiction of said Basistha Police Station, without obtaining prior written permission from the concerned I/O of the case; **(iii)** shall not hamper with the investigation, or tamper with the evidence of the case and **(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.

10. Violation of any of the aforesaid terms and conditions by either of the petitioners, **(i) Abul Hasim** and **(ii) Ajibur Rahman**, pre-arrest bail granted to them in said **Basistha P.S. Case No. 722/2024** shall stand automatically vacated.

11. Accordingly, this pre-arrest bail application stands allowed to the extent above.

12. Return the case diary.

JUDGE

Comparing Assistant