

GAHC010263342023



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

Case No. : AB/4001/2023

MUNNA ANSARY @ MD MUNNA
S/O MD. ANIS KURESHI
RESIDING AT PHOOLPAHINAGAR
P.O. AND P.S. JALUKBARI,
DIST. KAMRUP (METRO), ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MD S ALI

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

19.02.2024

Heard Mr. S. Ali, learned counsel for the applicant and also heard Mr. B. Sarma, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. Apprehending arrest in connection with Jalukbari P.S. Case No.309/2023, under Section 153(A) IPC, read with Section 13 of the Assam Cattle Preservation Act, 2021, this application under Section 438 Cr.P.C. has been preferred by the applicant, namely, Munna Ansary @ Md. Munna, 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. Monjul Doley on 26.05.2023. The essence of allegation made in the aforesaid FIR is that acting on a tip off, on 26.05.2023, at about 7:30 p.m., the informant found one Akbor Ali selling suspected beef at the shop of one Munna Ansary, which is a market place and other inhabitants, other than Islam also resides in the said locality and he had recovered 6.620 kg of beef and seized the same in presence of witnesses.

4. Mr. Ali, learned counsel for the applicant submits that this Court vide order dated 28.11.2023, was pleased to extend the privilege of interim pre-arrest bail to the applicant and pursuant to the said order, the applicant had appeared before the I.O. and cooperating with the investigating agency and therefore, a contention is being made that the interim order dated 28.11.2023, may be made absolute, in the same terms and conditions.

5. It is further submitted by Mr. Ali, learned counsel for the applicant that though the name of the applicant is mentioned in the FIR as owner of the shop, where beef was allegedly selling by accused Akbor Ali, yet as per Annexure-II the Trade Licence issued by the Guwahati Municipal Corporation, the owner of the said shop is one Urfan Qureshi and the present applicant is the employee of the said shop.

6. On the other hand, Mr. B. Sarma, learned Additional Public Prosecutor, Assam,

submits that he has not received the case diary and prays for granting him some more time. But, it appears from the order dated 29.01.2024, that last opportunity was given to him to produce the case diary before this Court today, but in spite of getting last chance Mr. Sarma has failed to produce the same before this Court. Accordingly, this Court deems it fit to proceed to hear and dispose of this anticipatory bail application without the case diary.

7. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record.

8. It appears from a bare perusal of the FIR that the present applicant is the owner of the shop. But from the Annexure-II enclosed at page 13 and 15 reveals that one Urfan Qureshi is the said shop.

9. Having considered above and also having considered the fact that the applicant has been cooperating with the investigating agency, his custodial interrogation seems to be not warranted here in this case and accordingly, this Court is inclined to make the interim order dated 28.11.2023, absolute, in the same terms and conditions. Case diary be returned.

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

Sd/- Robin Phukan
JUDGE

Comparing Assistant