

GAHC010265402023



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

Case No. : AB/3984/2023

HAMIDUR RAHMAN AND 2 ORS
S/O- SHAHAJAHAN SK
2: HASAN ALI @ KANKATA
S/O- SHAHAJAHAN SK
3: ROFIQUE SK
S/O- HUDE SK
ALL ARE UNDER P.S- SUKCHAR
DIST- SOUTH SALMARA MANKACHAR
ASSAM, PIN-78312

VERSUS

THE STATE OF ASSAM ,REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. L R MAZUMDER

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 23-01-2024

Heard Mr. A. Z. Ahmed, learned counsel for the applicants and also heard Mr. B. Sarma, learned Addl. P.P. for the State respondent.

Apprehending arrest in connection with Sukchar P.S. Case No. 239/2023, under

Sections 379/ 411/ 353/ 34 IPC read with Section 13(1)/ 16 of Assam Cattle Preservation Act, 2021 is preferred by three applicants, namely, 1. Hamidur Rahman, 2. Hasan Ali @ Kankata and 3. Rofique Sk, for grant of pre-arrest bail.

The above noted case has been registered on the basis of one FIR, lodged by one Moidul Islam on 05.10.2023.

The essence of allegation made in the FIR, dtd. 05.10.2023, is that on 05.10.2023, at about 5 P.M, they have found Hamidul Rahman, Hasan Ali @ Kankota and Rafique, at Bau Bazar, near Brahmaputra river, under Sukhchar P.S, preparing to transport cattle to Bangladesh and when they tried to apprehend them they fled away alongwith the cattle and also the accused have obstructed them in discharging their duty and assaulted him with dao and lathi over his hand and head and caused injuries to him and thereafter they managed to flee away.

Mr. Ahmed, learned counsel for the applicants submits that the applicants were granted the privilege of pre arrest bail vide order dated 04.01.2024, and pursuant to said order, they have appeared before the I.O. and they have been cooperating with the investigating agency and therefore, a contention is being made that the interim order dated 04.01.2024, may be made absolute in the same terms an condition.

On the other hand, Mr. B. Sarma, learned Addl. P.P. produced the case diary before this Court and submits that the I.O. has collected sufficient incriminating materials against the accused, and therefore, Mr. Sarma has opposed the petition.

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

case diary with the assistance of Mr. Sarma, learned Addl. P.P.

It appears that alongwith other Section of IPC, the case was also registered u/s 13(1)/ 16 of Assam Cattle Preservation Act, 2021 and the applicants are granted interim bail primarily on the ground that six numbers of buffalos were seized and the same were not incorporated u/s 13(1) / 16 of Assam Cattle Preservation Act. Further, it appears that pursuant to order dated 4.1.2023, the applicants have appeared before the I.O. and their statements have been recorded. But, a perusal of their statements recorded by the I.O. reveals that they have not been cooperating with the investigating agency. Moreover, the I.O. has collected sufficient incriminating materials against all the three applicants and their custodial interrogation seems to be indispensable in the interest of investigation and accordingly, this Court is of the view that this is not a fit case where the privilege of pre-arrest bail can be granted to the applicants.

Accordingly, the petition stands dismissed. Interim order passed earlier stands vacated.

Case diary be returned.

JUDGE

Comparing Assistant