

GAHC010273122023



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

Case No. : AB/4092/2023

NUR HUSSAIN @ HARU BABU AND ANR
S/O MOZID ALI
R/O VILL- GARIGAON
P.S. JALUKBARI
DIST. KAMRUP (M), ASSAM

2: SAHJAHAN ALI @ MAJU @ SOKA
S/O LATE ABDUL KALAM
R/O VILL- GARIGAON
P.S. JALUKBARI
DIST. KAMRUP (M)
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A K AZAD

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 03.01.2024

Heard Mr. A. K. Azad, learned counsel for the petitioners. Also heard Mr. K. K. Das, learned Additional Public Prosecutor for the State.

This application under Section 438 of the Code of Criminal Procedure, 1973

has been filed by the petitioners, namely, 1. *Nur Hussain @ Haru Babu* and 2. *Sahjahan Ali @ Maju @ Soka*, who are apprehending their arrest in connection with Jalukbari P.S. Case No. 699/2023 under Sections 379/411/34 of Indian Penal Code read with Section 11(1)(a) of the Prevention of Cruelty to Animals Act, 1960.

The gist of accusation in this case is that on 27.11.2023, one Bidyut Kumar Thakuria had lodged an FIR, *inter alia*, alleging that the accused persons named in the FIR, namely, Izzat Ali and Faruk Ali were carrying six nos. of cattle in a Magic Vehicle bearing Registration No. As-01-NC-8983 and were unable to produce any documents relating to the said cattle. It was also alleged that the cattle were carried in the said vehicle in a cruel manner.

The learned counsel for the petitioners has submitted that the accused persons named in the FIR were the driver and the helper of the vehicle in which the cattle were being carried and it is also submitted that both the driver and the helper were arrested and during interrogation they disclosed that the present petitioners are also involved in the illegal smuggling of the cattle. The learned counsel for the petitioners has submitted that the petitioners are small businessmen and they purchase weak cattle and after feeding them they sell the cattle.

It is also submitted by learned counsel for the petitioners that the petitioners are the owners of all the seized cattle and they have purchased the said cattle from the villagers of Garigaon village, however, as the same were purchased from the villagers, only money receipt given to them by the said seller. The learned counsel for the petitioners has also submitted that the petitioners are ready to cooperate in the investigation.

On the other hand, learned Additional Public Prosecutor has produced the case diary of Jalukbari P.S. Case No. 699/2023 and has submitted that the driver and the helper of the seized vehicle who were arrested are already released on bail, however, they have implicated the present petitioners.

I have considered the submissions made by learned counsel for the petitioners as well as learned Additional Public Prosecutor and have perused the materials on record including the case diary produced by the learned Additional Public Prosecutor.

Though the names of the present petitioners are implicated by the co-accused who were arrested in this case, however, it appears that the vehicle as well as the cattle involved in this case are already seized and the Investigating Officer has already recorded the statement of the accused persons who were already arrested and they have been enlarged on bail.

Considering the facts and circumstances of this case, it appears that custodial detention of the present petitioners may not be necessary, if they otherwise cooperate in the investigation.

In view of the above, both the petitioners, namely, *1. Nur Hussain @ Haru Babu and 2. Sahjahan Ali @ Maju @ Soka* are hereby directed to appear before the Investigating Officer of Jalukbari P.S. Case No. 699/2023 within a period of ten days from the date of this order and cooperate in the investigation. If they do so within the stipulated period of time, in the event of their arrest, they shall be allowed to go on bail of Rs.30,000/- (Rupees Thirty Thousand) only each with one surety of like amount to the satisfaction of arresting authority, subject to the condition:-

- (i) That the petitioners shall cooperate in the

investigation and shall appear before the Investigating Officer;

(ii) That the petitioners shall not directly or indirectly make any inducement, threat or promise to any other persons who may be acquainted with the facts of the case so as to dissuade such persons from disclosing such facts before the Investigating Officer.

With the above observations, the instant anticipatory bail application is hereby disposed of.

JUDGE

Comparing Assistant