

GAHC010281902023



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

Case No. : AB/4218/2023

ATOWAR RAHMAN
S/O . KASHEM ALI, R/O. BHANDARA PART-4, P.O- BHANDARA BAZAR, P.S-
BONGAIGAON, DIST- BONGAIGAON, ASSAM. PIN - 783390 MOB -
9864027090

VERSUS

THE STATE OF ASSAM
(TO BE REPRESENTED BY THE LEARNED P.P, ASSAM)

Advocate for the Petitioner : MR A K AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

08.01.2024

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

2. This application, under Section 438 Cr.P.C. is preferred by the applicant, namely,

Atowar Rahman, who has been apprehending arrest in connection with Basistha P.S. Case No.710/2023, under Section 379 of the IPC, 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, for grant of pre-arrest bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of one FIR lodged by ASI Atul Ch. Deka of Jorabat Out Post under Basistha P.S. on 15.11.2023. The essence of allegation made in the aforesaid FIR is that on 14.11.2023, at about 10:00 p.m., while he was attending night patrolling duty at Jorabat Out Post area, he has apprehended one vehicle at about 1:00 a.m. on 15.11.2023, bearing Registration No.AS-25EC-3297, in abandoned condition loaded with cattle and he found 32 cattle inside the vehicle.

4. Mr. Ahmed, learned counsel for the applicant submits that the applicant is the driver of the vehicle and the owner of the cattle and the owner of the vehicle have already been granted bail by this Court and that the applicant is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, Mr. B. Sarma, learned Additional Public Prosecutor, Assam, has produced the case diary before this Court and submits that material part of investigation is almost completed.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Sarma, learned Additional P.P.

7. In view of the materials collected so far in the case diary as well as the stage of investigation, custodial interrogation of the present applicant seems to be not warranted here in this case and therefore, this Court is inclined to allow this petition.

8. It is provided that in the event of arrest of the applicant, namely, Atowar Rahman, in connection with Basistha P.S. Case No.710/2023, under Section 379 of the IPC, 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, he shall be released on pre-arrest bail on his executing a bond of ₹ 50,000/- with one surety of the like amount to the satisfaction of the arresting authority. The above privilege is, however, subject to the following conditions:-

- (i) The applicant shall make himself available for interrogation by the Investigating Officer as and when required;
- (ii) The applicant 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 him from disclosing such facts to the Court or to any police officer; and
- (iii) The applicant shall not leave the jurisdiction of the learned C.J.M., Kamrup(M), without prior permission

9. In terms of above, this anticipatory bail application stands disposed of. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant