

GAHC010281962023



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

Case No. : AB/4217/2023

SHAH NAWAZ ALAM
S/O- LATE MAZIBUR RAHMAN R/O- VILLAGE AND P.O- BARMONIPUR P.S-
MIKIRBHETA DISTRICT - MARIGAON, ASSAM.

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR

Advocate for the Petitioner : MR M HOQUE

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 08-01-2024

1. Heard Mr. M. Hoque, learned counsel for the petitioner Shah Nawaz Alam.
2. The petitioner has filed this application under *Section 438 of the Code of Criminal Procedure* as he is apprehending arrest in connection with *Gahpur Police Station Case No. 204/2023* under *Sections 120(B)/379 of the Indian Penal Code*, read with *Section 11(1)(a)(b)(c)(d) of Prevention of Cruelty to Animal Act*.

3. Heard Ms. N. Das, learned Additional Public Prosecutor for the respondent State of Assam.
4. It is submitted on behalf of the petitioner that the petitioner is the owner of the vehicle and he was not privy to the fact that the driver and the handyman were involved in cattle smuggling.
5. The learned Additional Public Prosecutor has raised objection stating that the entire structure of the vehicle was changed. There are incriminating materials in the case diary against the petitioner. Without the knowledge of the owner of the vehicle, it is not logical that the driver and the handyman would be able to transport smuggled cattle by changing the entire structure of the tanker and convert the oil tanker into a vehicle for transporting cattle.
6. I have considered the submissions at the bar with circumspection. I have perused the case diary. The statements of seizure witnesses have already been recorded. Investigation has progressed to a considerable extent. There are indeed incriminating materials against the present petitioner. However, custodial interrogation may not be required at this stage as investigation has progressed to a considerable stage.
7. I have considered the submissions that the petitioner is a local resident and he is not a flight risk. The petitioner has pledged to cooperate with the investigation.
8. Considering all aspects and in view of my foregoing discussions, petition is allowed.
9. In the event of his arrest, the petitioner shall be enlarged on bail on furnishing a bail bond of *Rs.30,000/- (Rupees Thirty Thousand)* with a suitable surety of like amount to the satisfaction of arresting authority under the

conditions :

- (1) That the petitioner shall appear before the Investigating Officer within ten days and will cooperate with the investigation,*
- (2) the petitioner shall refrain from such activities with which he is alleged.*
- (3) The petitioner shall appear before the Investigating Officer on every fortnight till completion of investigation and the petitioner shall cooperate with the investigation.*

10. On breach of any bail conditions, bail order shall stand cancelled.
11. Send back the case diary.

Anticipatory Bail application stands disposed of in the above terms.

JUDGE

Comparing Assistant