

GAHC010288062023



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

Case No. : Bail Appln./4594/2023

ARIFUL ISLAM AND ANR
S/O ABDUL KUDDUS
VILL- BHAKATGAON
P.S. RUPAHI
DIST. NAGAON, ASSAM

2: DILWAR HUSSAIN
S/O INNOS ALI
VILL- RUPAHI TOWN
P.S. RUPAHI
DIST. NAGAON
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR A DEKA

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

10.01.2024

Heard Mr. A. Deka, learned counsel for the accused and also heard Mr. R.J. Baruah,

learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application, under section 439 Cr.P.C. is preferred by two accused, namely, Ariful Islam and Dilwar Hussain, who are languishing in jail hazot since 10.12.2023, in connection with Basistha P.S. Case No.774/2023, under Section 379 IPC, read with Section 11(1)(d) of the Prevention of Cruelty to Animals Act, 1960, read with Section 13(1) of the Assam Cattle Preservation Act, 2021, for grant of bail.

3. It is to be noted here that the above noted case has been registered on the basis of an FIR lodged by S.I. Chinmoy Baruah of Jorabat Out Post on 10.12.2023. The essence of allegation made in the aforesaid FIR is that on that day at about 9:00 a.m. they have carried 14 nos. of cattle in one Bolero pick up vehicle, bearing Registration No.AS-02DC-4211 without relevant documents.

4. Mr. Deka, learned counsel for the accused, submits that the accused were arrested on 10.12.2023 and since then they are languishing in jail hazot for last one month and that they are ready to cooperate with the investigating agency and therefore, it is contended to allow this petition.

5. On the other hand, Mr. R.J. Baruah, learned Additional Public Prosecutor, Assam, has produced the case diary before this Court and submits that the I.O. has collected sufficient incriminating materials against the accused persons, who have carried 14 nos. of cattle in the vehicle without any documents. However, to a pointed query of this Court, Mr. Baruah submits that the investigation has been progressed sufficiently.

6. Having heard the submission of learned Advocates for both the 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. Baruah, learned Additional P.P.

7. Indisputably, both the accused persons were arrested on 10.12.2023 and since then they are languishing in jail hazot. The case diary indicates that material part of the investigation is almost over and in the interest of investigation further custodial detention of the accused persons may not be required in the interest of investigation and

accordingly, this Court is inclined to allow this petition.

8. It is provided that on furnishing a bond of ₹ 50,000/- each, with one surety of the like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup(M), the accused persons, namely, Ariful Islam and Dilwar Hussain, be enlarged on bail.

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

Sd/- Robin Phukan
JUDGE

Comparing Assistant