

GAHC010291692023



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

Case No. : AB/4320/2023

ZIYAUH RAHMAN
S/O- HASEN ALI,
R/O- KABAYMARI PUB,
KAWAIMARI,
P.S- SAMAGURI, DIST- NAGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR S DEWRI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

08.05.2024

Heard Mr. A. Deka, learned counsel for the applicant and Mr. B.B. Gogi, learned Additional Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with **Uluani P.S. Case No. 55/2023**, under Section 380 of the IPC, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicant namely, **Ziyyaur Rahman** for grant of pre-arrest bail.

3. The said case has registered on the basis of an FIR lodged by one

Sapwan Das, on 01.11.2023. The essence of allegations made in the FIR is that on 01.11.2023, at about 2:00 am some unknown persons have entered in to his cowshed and stolen one black/white coloured cow and one red coloured cow and they have also stolen one white coloured cattle from the cowshed of his neighbor namely, Binod Kumar and having heard some whisper outside his house, he came out and found some unknown persons carrying the cattle in a vehicle, bearing registration No. AS-02-DC-0739 and he had also seen one white/red coloured KTM motorcycle fled away along with the vehicle.

4. Mr. Deka, learned counsel for the applicants submits that this Court was pleased to grant interim protection to the applicants, vide order dated 22.12.2023, and pursuant to the said order, the applicants have appeared before the I.O. and cooperating with the investigating agency and therefore, it is contended to make the interim order dated 22.12.2023, absolute in the same terms and conditions.

5. On the other hand, Mr. Gogoi, learned Additional Public Prosecutor by producing the case diary before this court, confirms that the applicants have appeared before the I.O. and cooperating with the investigating agency. Mr. Gogoi further submits that the I.O. has collected some incriminating materials against the applicants and that some of the co-accused are yet to be arrested and therefore, it is contended to dismiss the petition. However, to a pointed query of this Court Mr. Gogoi submits that the I.O. has examined some witnesses here in this case.

6. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition as well as the documents placed on record and also perused the Case Diary with the assistance of learned Additional Public Prosecutor.

7. The case diary indicates that the applicants have appeared before the I.O. and also cooperating with the investigating agency. Further, it appears that though some incriminating materials have been collected against the applicants, the I.O. has

achieved substantial progress in the investigation.

8. In view of the submissions of learned counsel for both the parties and also considering the fact that the applicants have been cooperating with the investigating agency and that of the progress of investigation, this Court is of the view that custodial interrogation of the applicants seems to be unwarranted here in this case. And therefore, this Court is inclined to make the interim order dated **22.12.2023, absolute** in the same terms and condition.

9. In terms of above this AB stands disposed of.

10. The case diary be returned.

Comparing Assistant

JUDGE