

GAHC010041982024



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

Case No. : Bail Appln./654/2024

MD. HABIBUR RAHMAN
S/O- MD. GAJI RAHMAN, R/O- VILL- KUTHARI, HARMOTI, P.S.
JAKHALABANDHA, DIST.- BONGAIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY P.P., ASSAM

Advocate for the Petitioner : MR. T CHUTIA

Advocate for the Respondent : PP, ASSAM

**BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN**

ORDER

13.03.2024

Heard Mr. T. Chutia, 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 accused, namely, Habibur Rahman, who has been languishing in jail hazot since 30.01.2024, in connection with

Khetri P.S. Case No.08/2024, under Section 379/411/34 IPC, read with Section 11(1)(a) (d)(e) of the Prevention of Cruelty to Animals Act, read with Section 13(1)/16 of the Assam Cattle Preservation (Amendment) Act, for grant of bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by LNK Bipin Kalita of Khetri P.S., on 30.01.2024. The essence of allegation made in the aforesaid FIR is that on 29.01.2024, while he was attending patrolling duty along with his staff, at about 9:40 p.m. he has intercepted one vehicle, bearing Registration No.NL-01AD-3449 and having checked the same, he found 35 nos. of cattle being carried in the vehicle without relevant document and in an atrocious manner and apprehended the driver of the vehicle, namely, Habibur Rahman and he failed to produce any document.

4. Mr. Chutia, learned counsel for the accused submits that the accused was arrested on 30.01.2024 and that he is the driver of the vehicle and the owner of the cattle has already been granted the privilege of interim pre-arrest bail by this Court in AB No.392/2024, vide order dated 20.02.2024 and that the present accused is ready to cooperate with the investigating agency and therefore, Mr. Chutia 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 investigation of the case has progressed sufficiently and that the seized cows have already been released in the custody of the owner.

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. Baruah, learned Additional P.P.

7. It appears that the accused was arrested on 30.01.2024 and he is behind the bar for last 42 days. The case diary indicates that the investigation of the case has progressed sufficiently and in the interest of investigation, further custodial detention of the accused

seems to be not warranted here in this case. And therefore, this Court is inclined to allow this petition. It is provided that on furnishing a bond of ₹ 50,000/- with one surety of the like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup(M), the accused, namely, Habibur Rahman, be enlarged on bail. Case diary be returned.

8. In terms of above, this bail application stands disposed of.

Sd/- Robin Phukan
JUDGE

Comparing Assistant