

GAHC010001562024



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

**Case No. : Bail Appln./126/2024**

MD IFTIKAR HUSSAIN AND ANR  
S/O- MD. ASHRAF ALI, R/O- VILL.- NEAR LP SCHOOL BURABURI, P.S.  
MORIGAON, DIST.- MORIGAON, ASSAM

2: MD. SURUJ ALI  
S/O- MD. TAHIR ALI  
VILL.- PACHIM KHOLONI BILPAR  
P.S. MORIGAON  
DIST.- MORIGAON  
ASSA

VERSUS

THE STATE OF ASSAM  
THROUGH PUBLIC PROSECUTOR, ASSAM

**Advocate for the Petitioner : M. HOSSAIN**

**Advocate for the Respondent : PP, ASSAM**

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

**ORDER**

**23.01.2024**

Heard Mr. M. Hossain, 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, Md. Iftikar Hussain and Md. Suruj Ali, who have been languishing in jail hazot since 19.12.2023, in connection with Sonapur P.S. Case No.277/2023, under Section 379/411/34 IPC, read with Section 13(1)/14 of the Assam Cattle Preservation (Amendment) Act, 2021, read with Section 11(1)(a)(b)(d) of the Prevention of Cruelty to Animals Act, 1960, 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 one Sachin Swargiary, UBC of Sonapur P.S. on 19.12.2023. The essence of allegation made in the aforesaid FIR is that on 19.12.2023, at about 6:34 a.m. when he was attending patrolling duty, he has checked one vehicle, bearing Registration No.AS-01QC-0994 and found 19 nos. of cattle being carried in the vehicle without any document.

4. Mr. Hossain, learned counsel for the accused, submits that the accused persons are behind the bar for last 44 days and that they are the driver and handyman of the vehicle and they are no way involved with the offence alleged in the FIR and they are ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. Whereas, Mr. R.J. Baruah, learned Additional Public Prosecutor, Assam, submits that he has received the case diary and investigation is pending for ascertaining the ownership of the seized cattle. Mr. Baruah further submits that out of 19 cattle 3 of them are found to be dead and therefore, Mr. Baruah has opposed the petition.

6. Having heard the submission of learned Advocates for 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 persons are behind the bar for last 44 days. Further, it appears from the case diary that the I.O. has achieved significant progress in the investigation and the case is pending for ascertaining the owner of the seized cattle. The present accused persons are the driver and handyman of the vehicle and they are not

aware as to who is the owner of the seized cattle.

8. Having considered above, especially the period of detention and balancing the same with the nature and gravity of the offence, further custodial detention of the accused persons seems to be not warranted here in this case and therefore, this Court is inclined to allow this petition.

9. 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), both the accused persons be enlarged on bail. Case diary be returned.

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

**Sd/- Robin Phukan  
JUDGE**

**Comparing Assistant**