

GAHC010025992024



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

Case No. : Bail Appln./394/2024

NURUL ISLAM AND 4 ORS.
R/O VILL- KHUDIMATI
GAURIPUR, P.S. GAURIPUR,
DIST. DHUBRI, ASSAM

2: NOOR HUSSAIN
R/O VILL- BALAJAN PART-2

P.S. GAURIPUR
DIST. DHUBRI
ASSAM

3: MUKSIDUL ISLAM
R/O VILL- BARONGATULI
P.S. KHAOWAL
DIST. NAGAON
ASSAM

4: SAIDUL ISLAM
R/O VILL- GERUATI
P.S. RUPOHIHAT
DIST. NAGAON ASSAM

5: ASHIQUE IQBAL
R/O VILL- BARONGATULI
P.S. KHAOWAL
DIST. NAGAON
ASSA

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. M AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

21.02.2024

Heard Mr. M. Ahmed, learned counsel for the accused and also heard Ms. A. Begum, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application, under section 439 Cr.P.C. is preferred by five accused, namely, Nurul Islam, Noor Hussain, Muksidul Islam, Saidul Islam and Ashique Iqbal, who have been languishing in jail hazot since 22.01.2024, in connection with Basistha P.S. Case No.52/2024, under Section 379/34 IPC, read with Section 11(1)(d) of the Prevention of Cruelty to Animals Act, 1960, and Section 13(1)/16 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. Ritupon Kalita of Jorabat Out Post, on 22.01.2024. The essence of allegation made in the aforesaid FIR is that on the intervening night of 21.01.2024, at about 4:30 a.m., the informant and other police staff had intercepted a vehicle, bearing Registration No.AS-17B-6857 (Truck) and recovered 30 nos. of cattle being carried in the same and apprehended the driver of the vehicle, namely, Noor Islam and helper, namely, Noor Hussain and also intercepted another vehicle, bearing Registration No.AS-01FT-6306, and apprehended one Muksidul Islam, Saidul Islam and Ashique Iqbal, who were escorting the Truck loaded with cattle illegally and in an atrocious manner.

4. Mr. Ahmed, learned counsel for the accused submits that the accused persons were

arrested on 22.01.2024 and since then they have been languishing in jail hazot and that in the interest of investigation, further custodial interrogation of the accused persons may not be warranted and that they are ready to cooperate with the investigating agency and therefore, it is contended to allow this petition.

5. Pursuant to the order dated 19.02.2024, the learned counsel for the accused persons has submitted one additional affidavit enclosing one certificate of fitness of the cattle issued by Block Veterinary Officer, Titabor. It is submitted that the seized cattles were purchased from Bihara Weekly Cattle (Buffalo) Selling Market in the morning hours and thereafter, they have obtained the certificate enclosed as Annexure-A in the additional affidavit filed by the accused persons and thereafter, the cattles were carried to Nagaon from M/s Pioneer Livestock for business purposes the said cattles were purchased by the deponent of the affidavit, namely, Rahmat Ali and he again obtained the certificate from the Assistant Poultry Development Officer, Nagaon, which is enclosed at page 68 of the petition.

6. Be that as it may, Ms. A. Begum, learned Additional Public Prosecutor, Assam, today, has produced the case diary before this Court and submits that the I.O. has collected sufficient incriminating materials against the accused and the investigation is going on to unearth the involvement of other accused persons and therefore, Ms. Begum has opposed the petition.

7. 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 Ms. Begum, learned Additional P.P.

8. In view of the materials collected so far in the case diary as well as progress of investigation and also considering the period of detention of the accused persons, who are languishing in jail hazot since 22.01.2024, this Court is inclined to allow this petition. 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 C.J.M., Kamrup(M), in connection with Basistha P.S. Case No.52/2024, under Section 379/34 IPC, read with Section 11(1)(d) of the

Prevention of Cruelty to Animals Act, 1960, and Section 13(1)/16 of the Assam Cattle Preservation Act, 2021, the accused, namely, Nurul Islam, Noor Hussain, Muksidul Islam, Saidul Islam and Ashique Iqbal, be enlarged on bail. Case diary be returned.

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

**Sd/- Robin Phukan
JUDGE**

Comparing Assistant