

GAHC010037772024



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

Case No. : AB/444/2024

RAHMAT ALI
S/O SAMSUDDIN
R/O VILL- GERUA MUKH, P.O. GERUA MUKH, P.S. SAMAGURI, DIST.
NAGAON, ASSAM

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

23.02.2024

Heard Mr. M. Ahmed, learned counsel for the applicant and also heard Mr. B. Sarma, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application, under Section 438 Cr.P.C. is preferred by the applicant, namely, Rahmat Ali, who has been apprehending arrest 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, read with Section 13(1)/16 of the Assam Cattle Preservation Act, for grant of pre-arrest bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by one Ritupon Kalita, S.I. of Police, Basistha P.S. on 22.01.2024. The essence of allegation made in the aforesaid FIR is that on that day, at about 10:00 p.m. while he was attending patrolling duty, he had intercepted two vehicles, one bearing Registration No.AS-17B-6857 (Truck), carrying 30 nos. of live cattle illegally without any document from Nagaon side towards Byrnihat, Meghalaya and apprehended the driver of the vehicle, namely, Noor Islam and helper Noor Hussain and the other intercepted vehicle, white coloured Fronx Vehicle, bearing Registration No.AS-01FT-6306 and apprehended the driver of the said vehicle, namely, Muksidul Islam and his associates, namely, Saidul Islam and Ashique Iqbal, who were escorting the Truck where the cattles were being carried.

4. Mr. Ahmed, learned counsel for the applicant submits that the applicant is the owner of the cattle carried in the said Truck and he has all the relevant documents of purchasing the same from Bihora Weekly Cattle (Buffalo) Selling Market and that the seized cattles were given in his zimma vide order dated 16.02.2024 by the learned Court below, but the applicant apprehends that if he appears before the I.O., he may be arrested here in this case and therefore, it is contended that the applicant may be granted the privilege of pre-arrest bail and he is ready to cooperate with the investigating agency.

5. On the other hand, Mr. B. Sarma, learned Additional Public Prosecutor has produced the case diary before this Court and submits that the I.O. has failed to collect incriminating material against the present applicant. But, Mr. Sarma pointed out that at the time of seizure of the cattle, no document could be produced by the driver and handyman.

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. Sarma, learned Additional P.P.

7. In view of the materials collected so far in the case diary and also in view of the submission of learned Advocates of both the parties, custodial interrogation of the applicant seems to be not warranted here in this case and therefore, this Court is inclined to allow this petition. It is provided that in the event of arrest of the applicant, namely, Rahmat Ali, 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, read with Section 13(1)/16 of the Assam Cattle Preservation Act, he shall be enlarged on pre-arrest bail on his executing a bond of ₹ 50,000/- with one surety of the like amount to the satisfaction of the arresting authority. The above privilege is, however, subject to the following conditions:-

- (i) The applicant shall make himself available for interrogation by the Investigating Officer as and when required;
 - (ii) The applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer; and
 - (iii) The applicant shall not leave the jurisdiction of the learned C.J.M., Kamrup(M), without prior permission.
8. In terms of above, this anticipatory bail application stands disposed of.
9. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant