

GAHC010007762024



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

Case No. : Bail Appln./152/2024

IDRISH ALI AND ANR
S/O LT. JALAL UDDIN
VILL- HATIMURIA
P.S. MOIRABARI
DIST. MORIGAON, ASSAM

2: JAKIR HUSSAIN
S/O LT. ANOWAR HUSSAIN
VILL- BALIGATE
P.S. SONAPUR
DIST.KAMRUP
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. T CHUTIA

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

01.02.2024

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 two accused, namely, Idrish Ali and Jakir Hussain, who have been languishing in jail hazot since 28.12.2023 and 02.01.2024, respectively, in connection with Basistha P.S. Case No.842/2023, under Section 379/411/34 IPC, read with Section 13(1) of the Assam Cattle Preservation Act, 2021, read with Section 11(1)(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 ASI Bipul Ch. Deka of Jorabat Out Post on 28.12.2023. The essence of allegation made in the aforesaid FIR is that on the intervening night of 28.12.2023, at about 4:30 a.m., he has intercepted one vehicle, bearing Registration No.NL-01K-7143 and during checking of the vehicle, he found 26 nos. of live cattle being carried in the said vehicle without any document and he apprehended the driver of the vehicle, namely, Idrish Ali and the helper, namely, Jakir Hussain.

4. Mr. Chutia, learned counsel for the accused persons, submits that the accused No.1 Idrish Ali is the driver of the aforesaid vehicle and he has been languishing in jail hazot for last 33 days and accused No.2 Jakir Hussain is the helper of the vehicle and he is behind the bar for last 32 days and that the aforementioned cattle were purchased from Rajmai Weekly Animal Market, under Sivasagar Zila Parishad and enclosed the relevant documents of purchasing the cattle as Annexure-3 series.

5. It is to be noted here that the learned Additional P.P. was directed to produce the case diary before this Court vide order dated 18.01.2024, but the learned Additional P.P. has failed to produce the case diary before this Court on 29.01.2024, for which another chance was granted to the learned Additional P.P. to produce the case diary before this Court today, but the learned Additional P.P. has failed to produce the case diary before this Court today also and accordingly, in view of the order dated 29.01.2024, this Court is inclined to dispose of this bail application without perusing the case diary on the basis of materials placed on record.

6. It appears that both the accused are languishing in jail hazot since 28.12.2023 and

02.01.2024, respectively. Further, it appears that accused No.1 Idrish Ali is the driver of the vehicle and accused No.2 Jakir Hussain is the helper of the vehicle. It also appears from the documents placed on record at Annexure-3 series that one Abdul Rahman is the owner of the seized cattle, who had purchased the same from Rajmai Weekly Animal Market under Sivasagar Zila Parishad.

7. Having considered above and also considering the submission of learned Advocates of both the parties and also considering the nature and gravity of the offence and balancing the same with the period of detention, 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 Chief Judicial Magistrate, Kamrup(M), both the accused persons, namely, Idrish Ali and Jakir Hussain, be enlarged on bail.

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

Sd/- Robin Phukan
JUDGE

Comparing Assistant