

GAHC010016042024



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

Case No. : AB/217/2024

ARIFUL ISLAM
S/O- ABBU BAKKAR, VILL SAIDORIA P.S.- RUPAHI DISTRICT- NAGAON,
ASSAM

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

12.02.2024

Heard Mr. T. Chutia, learned counsel for the applicant and also heard Mr. R.J. Baruah, learned Additional Public Prosecutor, Assam, appearing for the State respondent No.1.

2. This application, under Section 438 Cr.P.C. is preferred by the applicant, namely,

Ariful Islam, who has been apprehending arrest in connection with Basistha P.S. Case No.829/2023, under Section 379 IPC, read with Section 11(1)(d) of the Prevention of Cruelty to Animals Act, 1960, read with Section 13(1)/16 of the Assam Cattle Preservation Act, 2021, 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 S.I. Chinmoy Baruah of Jorabat Police Out Post, on 24.12.2023. The essence of allegation made in the aforesaid FIR is that on the intervening night of 24.12.2023, at about 4:00 p.m., he has intercepted two vehicles, bearing Registration Nos.NL-01AF-7573 and AS-02DC-3915 and found 27 nos. of cattle in the first vehicle and 12 nos. of cattle in the second vehicle, being carried without any documents.

4. Mr. Chutia, learned counsel for the applicant submits that the applicant is the owner of 27 nos. of cattle and in support of the same he has produced the receipt issued by Rajmai Weekly Animal Market under Sibsagar Zila Parishad and further submits that he is no way involved with the offence alleged in the FIR and therefore, it is 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 there is no material against the present applicant and he is not warranted here in this case also and no such averment has been made in the application in respect of searching him by police and that the documents produced by the applicant in support of his claim that he is the purchaser of the 27 nos. of cattle, yet there is no signature seller and purchaser in the aforementioned receipts and as such doubt crops in mind regarding the veracity of the same, and therefore, it is contended to dismiss the petition.

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. The case diary indicates that there is no material against the present applicant and

more interestingly the applicant is not warranted here in this case and further it appears that the original receipts produced before the Court today and also enclosed with the petition bears no signature of the purchaser and the seller and therefore, there is every reason to doubt that the same may not be genuine.

8. In view of above, this Court is of the view that this is not a fit case where the privilege of pre-arrest bail can be granted to the applicant and accordingly, the petition stands dismissed.

9. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant