

GAHC010062272024



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

**Case No. : AB/787/2024**

GULAZAR HUSSAIN @ GULZAR AND ANR  
S/O MAINUDDIN, R/O VILL- JALUGUTI, P.S.-MIKIRBHETA, DIST-  
MORIGAON

2: REKIB ALI @ REKIB AHMED  
S/O FAKARUDDIN  
R/O VILL- JALUGUTI  
P.S.-MIKIRBHETA  
DIST-MORIGAO

VERSUS

THE STATE OF ASSAM  
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

**Advocate for the Petitioner : MR. R ALI**

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

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

**ORDER**

**05.04.2024**

Heard Mr. R. Ali, learned counsel for the applicants and also heard Mr. B.B. Gogoi, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

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

Gulzar Hussain @ Gulzar and Rekib Ali @ Rekib Ahmed, who have been apprehending arrest in connection with Basistha P.S. Case No.1/2024 under Section 379 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, 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 one Ritupon Kalita, S.I. of Police, Jorabat Out Post, on 03.01.2024. The essence of allegations made in the aforesaid FIR is that on 02.01.2024, at about 10:00 p.m. while the informant was attending night patrolling duty in the area under the jurisdiction of Jorabat Police Out Post, then at about 5:00 a.m. in the morning he has intercepted two vehicles, bearing Registration Nos.AS-01NC-9425 with 26 nos. of cattle and AS-21C-9567 with 21 nos. of cattle, being carried illegally and atrociously from Nagaon side towards Byrnihat and apprehended one driver and helper, namely, Enamul Haque and Jaynur Ali of the vehicle No.AS-01NC-9425 and also apprehended the driver of the vehicle No.AS-21C-9567, namely, Rekib Ahmed and they failed to produce any document in respect of the cattle.

4. Mr. Ali, learned counsel for the applicants submits that the present applicants, namely, Gulzar Hussain @ Gulzar and Rekib Ali @ Rekib Ahmed are the owners of the aforesaid cattle and they have purchased the said cattle from Jaluguti Weekly Market and the documents of purchasing the same are being annexed with the petition as Annexure-3 colly and that 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 this petition. Mr. Ali also referred to an order of the learned Sub-Divisional Judicial Magistrate (S), Kamrup, Guwahati, by which the learned Court below has granted zimma of 47 nos. of cattle to the present applicants.

5. On the other hand, Mr. B.B. Gogoi, learned Additional Public Prosecutor, Assam, has produced the case diary before this Court and submits that material part of the investigation is almost over.

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. Gogoi, learned Additional P.P.

7. The case diary indicates that the I.O. has achieved substantial progress in the investigation. In view of the materials collected so far in the case diary, as well as the progress of investigation, custodial interrogation of the applicants 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 applicants, namely, Gulzar Hussain @ Gulzar and Rekib Ali @ Rekib Ahmed, in connection with Basistha P.S. Case No.1/2024 under Section 379 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, 2021, they shall be enlarged on pre-arrest bail on their executing a bond of ₹ 50,000/- each, 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 applicants shall make themselves available for interrogation by the Investigating Officer as and when required;
  - (ii) The applicants 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 applicants 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**