

GAHC010004392024



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

Case No. : AB/67/2024

SOFIQUUL ALOM CHOUDHURY
S/O ABDUL MOTIN CHOUDHURY, R/O BALIJAN NAGAR BYE LANE II,
NEAR MP ACADEMY, KERAKUCHI, P.S.-HATIGAON CHARIALI, DIST-
KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. M AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

02.02.2024

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,

Sofiquil Alom Choudhury, who has been apprehending arrest in connection with Basistha P.S. Case No.810/2023, under Section 379 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 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 Out Post on 20.12.2023. The essence of allegation made in the aforesaid FIR is that on the intervening night of 20.12.2023, at about 4:30 a.m., he along with staff have intercepted one vehicle, bearing Registration No.AS-27C-6569 at Jorabat Tiniali, Assam-Meghalaya border and on checking the vehicle he found 23 nos. of live cattle and also found one Butul Hussain (driver) and one Saiful Haque (helper) and the driver and helper could not produce any document for carrying 23 nos. of live cattle in the vehicle.

4. Mr. Ahmed, learned counsel for the applicant submits that the applicant is the registered owner of the vehicle, bearing Registration No.AS-27C-6569 and in support of the same, Mr. Ahmed has referred to Annexure-5 (page-35) of the petition, which is the certificate of registration indicating the applicant as the owner of the said vehicle and Mr. Ahmed also referred to page 36 of the petition, wherein it is stated that the District Animal Husbandry and Veterinary Officer, Dhubri has permitted him to use the vehicle for transporting livestock (cattle and buffalo) transportation and that the applicant is innocent and ready to cooperate with the investigating agency and therefore, it is contended to allow this petition.

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 collected some materials in support of the allegation made in the FIR and the same relates to the driver and owner of the vehicle. However, Mr. Sarma has opposed the petition on the ground that the applicant is the registered owner of the vehicle.

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 progress of investigation, custodial interrogation of the applicant seems to be unwarranted 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, Sofiquil Alom Choudhury, in connection with Basistha P.S. Case No.810/2023, under Section 379 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, he shall be enlarged on pre-arrest bail on his executing a bond of Rs.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