GAHC010028772024

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

Case No. : AB/363/2024

IFTAR HUSSAIN
S/O MD. NAZRUL HUSSAIN
R/O SONAPUR BALIGHAT,
P.O. AND P.S. SONAPUR
DIST. KAMRUP (M), ASSAM
PIN-782402

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner   : MR. P J BARMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

17.02.2024

Heard Mr. W.R. Medhi, learned counsel for the applicant and also heard Mr. K.K. Das, 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, Iftar Hussain, who has been apprehending arrest in connection with Basistha P.S. Case No.842/2023, 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, 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 ASI Bipul Ch. Deka of Jorabat Police Out Post on 28.12.2023. The essence of allegation made in the aforesaid FIR is that on 27.12.2023, at about 4:30 a.m., the informant along with other police staff, intercepted one vehicle, bearing Registration No.NL-01K-7143 and on checking the vehicle they found 26 nos. of live cattle being carried in the same without valid document, such as veterinary certificate.

4. Mr. Medhi, learned counsel for the applicant submits that the applicant apprehends arrest in connection with this case, as in the forwarding report of one of the arrested accused, namely, Jakir Hussain, the I.O. has mentioned that Jakir Hussain also stated in his statement before police that the present applicant, namely, Iftar Hussain is also involved in illegal transportation of the cattle from Assam to Meghalaya. But Mr. Medhi submits that the applicant is no way involved with the offence alleged in the FIR and he is ready to cooperate with the investigating agency and therefore, it is contended to allow this petition.

5. On the other hand, Mr. K.K. Das, learned Additional Public Prosecutor, Assam, has produced the case diary before this Court, which was available with him and on the basis of material available in the case diary, Mr. Das submits that custodial interrogation of the applicant may not be required in the interest of investigation.

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. Das, learned Additional P.P.

7. In view of the materials collected so far in the case diary and also the stage 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, Iftar Hussain, in connection with Basistha P.S. Case No.842/2023, 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, 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.

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Sd/- *Robin Phukan*
JUDGE

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Comparing Assistant