

GAHC010020892024



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

Case No. : Bail Appln./358/2024

ABDUL HANAN AND 4 ORS.
S/O ATE KUDDUS ULLAH
R/O KADMGURI
P.S. RUPAHIHAT
DIST. NAGAON, ASSAM

2: RAMJAN ALI @ SARIFUL
S/O NURUL AMIN
R/O NO. 2 KHALIHAARI
P.S. SAMAGURI
DIST. NAGAON
ASSAM

3: ASHADUL HOQUE
S/O SIDDIQUE ALI
R/O SAILKHAITY
AMONI
P.S. SAMAGURI
DIST. NAGAON
ASSAM

4: MOTIUR HUSSAIN @ MOTIN
S/O LATE AINUDDIN
R/O BAJIAGAON
P.S. SAMAGURI
DIST. NAGAON
ASSAM

5: ABUL HUSSAIN
S/O MAKBUL HUSSAIN
R/O BAJIAGAON
P.S. SAMAGURI
DIST. NAGAON
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR S M ABDULLAH P

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

19.02.2024

Heard Ms. M. Hussain, 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 five accused, namely, Abdul Hanan, Ramjan Ali @ Sariful, Ashadul Hoque, Motiur Hussain @ Motin and Abul Hussain, who have been languishing in jail hazot, in connection with Uluani P.S. Case No.03/2024, under Section 461/380 IPC, 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 one Jiten Borah on 16.01.2024. The essence of allegation made in the aforesaid FIR is that on 12.01.2024 some unknown culprits committed theft of two cows from his cowshed of worth ₹ 1,10,000/-.

4. Ms. Hussain, learned counsel for the accused, submits that the accused No.1, 2 and 3, namely, Abdul Hanan, Ramjan Ali @ Sariful and Ashadul Hoque are languishing in jail hazot for last 32 days since 18.01.2024 and the accused Nos.4 and 5, namely, Motiur Hussain @ Motin and Abul Hussain are languishing in jail hazot for last 30 days since

20.01.2024 and in the interest of investigation their further custodial detention may not be required and therefore, it is contended to allow this petition.

5. On the other hand, Mr. R.J. Baruah, learned Additional Public Prosecutor, Assam, submits that he has received the case diary and the I.O. has collected sufficient incriminating materials against accused No.1 and the two stolen cows are recovered from from his possession along with 15 others, which he kept there for slaughtering and in respect of the 15 nos. of cows recovered from his cowshed, the investigation is going on and therefore, Mr. Baruah has opposed the petition.

6. Having heard the submission of learned Advocates for 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. It appears that the I.O. has collected sufficient incriminating materials the accused No.1 Abdul Hanan. Further, it appears that besides the two stolen cows, 15 other cows have also been recovered from his cowshed and the case diary also indicates that investigation in respect of the remaining 15 cows is still going on.

8. Under the aforesaid facts and circumstances, this Court is of the view that further custodial detention of accused No.1 Abdul Hanan, appears to be necessary and therefore, his prayer for bail stands rejected.

9. However, considering the materials collected so far in the case diary in respect of accused Nos.2, 3, 4 and 5, namely, Ramjan Ali @ Sariful, Ashadul Hoque, Motiur Hussain @ Motin and Abul Hussain, this Court is of the view that their further custodial detention may not be required in the interest of investigation and therefore, this Court is inclined to allow their prayer. Accordingly, 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 S.D.J.M.(M), Kaliabor, in connection with Uluani P.S. Case No.03/2024, under Section 461/380 IPC, the accused Nos.2, 3, 4 and 5, namely, Ramjan Ali @ Sariful, Ashadul Hoque, Motiur Hussain @ Motin and Abul Hussain, be enlarged on bail. Case diary be returned.

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

Sd/- Robin Phuikan
JUDGE

Comparing Assistant