

GAHC010091602021



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

Case No. : Bail Appln./1218/2021

ASHRAFUL ALOM
S/O- ABDUL HAKIM, VILL- UTTAR MOINBORI, PS- KALGACHIA, DIST
BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY PP, ASSAM

Advocate for the Petitioner : MR. N UDDIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE HITESH KUMAR SARMA

ORDER

29-06-2021

The Court proceedings have been conducted through Video-Conference due to Covid-19 pandemic.

This is an application made under **Section 439 Cr.P.C.**, seeking bail by the accused-petitioner, namely, **Ashraful Alom**, in connection with **Howly Police**

Station Case No. 298/2021, registered under **Sections 120(B)/379/365/395 of the IPC**, read with **Section 11(1)(a)(b)(d)(e) of the Prevention of Cruelty to Animal Act**.

The case diary produced has been perused.

Heard Mr. N. Uddin, learned counsel appearing for the accused-petitioner and Mr. M. Phukan, learned Additional Public Prosecutor.

The case, as appears from the FIR, is that while the informant/ASI of Police, Nabajit Deka, was doing his patrolling duty on 03-05-2021, he received an information from the Officer-in-Charge of Howly Police Station that public detained one truck, bearing registration No. BR-01GG-9727, near Kujarpith on National Highway 31. The truck was carrying 19 cows and 10 calves, which were recovered and seized. The driver and handyman of the truck were apprehended. They could not produce any document in respect of the aforesaid cattle. The Investigating Police Officer also came to know from the apprehended driver and handyman that they are not the real driver and handyman of the truck. The actual driver and handyman of the truck were kidnapped and detained by a group of miscreants. Later on, the actual driver and handyman of the truck were also apprehended by police during the course of investigation. The apprehended driver and handyman had admitted before the Investigating Police Officer that they had secretly and illegally carrying the cattle from Patipara, West Bengal to Jalukbari, but they were kidnapped near Bijni by a group of unknown persons coming in three Alto cars.

Mr. Uddin, learned counsel for the petitioner has submitted that the petitioner is a very poor man and in no way involved with the offence alleged in this case. He has further submitted that the accused-petitioner was arrested on 29-05-2021 and as such, he is in custody for a period of 32 days as on date.

Mr. Phukan, learned Additional Public Prosecutor has objected to the prayer for bail of the petitioner stating that the petitioner is very much involved with the commission of the offences and there is statement of the co-accused implicating him with the offences alleged. The bail objection of the Investigating Police Officer, available in the case diary and referred to by learned Additional Public Prosecutor, shows that the co-accused has implicated the accused-petitioner. It has also come out from the materials in the case diary and from the bail objection, referred to above, that the original driver and handyman of the aforesaid truck, who were allegedly kidnapped, have already been recovered during the course of investigation.

On perusal of the entire case diary, it does not appear to this Court that any independent evidence has so far been collected to implicate the accused-petitioner. As has been stated above, there is only statement of the co-accused implicating the petitioner.

In view of above, taking into account the entire facts of the case, the stage of the investigation and also the period of detention of the petitioner, the petitioner is granted bail.

Accordingly, the accused-petitioner, named above, shall be released on bail in connection with the case aforementioned on furnishing bail bond of **Rs.50,000/-** with **two suitable sureties** each of the like amount, to the satisfaction of learned Chief Judicial Magistrate, Barpeta.

The direction for bail is further subject to the conditions that the accused-petitioner:

- (a) shall not hamper with the investigation of the case and tamper with the evidence of the case;
- (b) 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.

(c) shall not leave the jurisdiction of Howly Police Station without prior intimation to the Investigating Police Officer/Officer-in-Charge of Howly Police Station and shall report to the Investigating Police Officer once in a week for eight weeks after his release on bail, and as and when called for by the Investigating Police Officer.

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

Return the case diary.

JUDGE

Comparing Assistant