

GAHC010022862023



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

Case No. : AB/357/2023

MD. MUSFIR ALI
S/O- JAMIRAT ALI, R/O- VILL.- RAHDHALA, P.S. MIKIRBHETA, DIST.
MORIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR M HOQUE

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

15.03.2023

Heard Mr. M. Hoque, learned counsel for the petitioner and Mr. B.B. Gogoi, learned Addl. Public Prosecutor, Assam for the State.

2. This application has been filed by the petitioner namely, **Md. Musfir Ali** apprehending arrest in connection with Mikirbheta P.S. Case No. 313/2021

under Sections 406/509/506/34 of the IPC added Section 376 of the IPC read with Section 66(E) of the I.T. Act.

3. By an FIR dated 29.06.2021, the informant namely one Ranju Begum, alleged that the petitioner had introduced himself as an unmarried person and established physical relationship with the informant at the house situated at Rahdhala village as well as at the rented house situated at Morigaon. Later on, the informant came to know that the accused person is a married person and as such, she had given up the relationship. The accused in the recent past had threatened her over telephone to cause physical harm and threatened her with dire consequences as well as threatened to make viral of the photographs of the informant in a compromising position which was captured during their physical relationship. The said FIR was received and registered as Mikirbheta P.S. Case No. 313/2021 under Sections 406/509/506/34 of the IPC added Section 376 of the IPC read with Section 66 (E) of IT Act.

4. Investigation commenced pursuant to the registration of the FIR. Apprehending arrest, the petitioner, whose name in the FIR, has preferred this anticipatory bail praying for grand of anticipatory bail.

5. This Court vide order dated 08.02.2023 granted interim bail to the petitioner and directed the learned Addl Public Prosecutor to produce the case diary.

6. Today when the matter is called up, the learned Addl. PP has produced the case diary.

7. The learned counsel for the parties have been heard. Pleadings on record have been carefully perused.

8. From the case diary, it is seen that the informant had stated in her statement under Section 164 Cr.P.C that there was a romantic relationship between the petitioner and the informant. They had both maintained physical relationship for some time. The age of the informant is about 40 years and the age of the petitioner is about 25 years. It is stated that her photographs in compromising position were taken by the petitioner without her knowledge. The medical report available does not disclose any injuries inflicted on the body of the informant. *Prima facie*, it appears that the relationship between the petitioner and the informant was consensual. They are both adults. The statement of the petitioner is also available in the case record which also discloses the existences of physical relationship between the petitioner and the informant. Since the petitioner has already been granted interim pre-arrest bail vide the order dated 08.02.2023 and as there are no incriminating materials available in the case diary against the petitioner or that the petitioner is not co-operating with the investigation or has violated any of the conditions even in the order dated 08.02.2023 passed by this Court, this Court is of the considered view that the interim bail granted vide order dated 08.02.2023 can be made absolute.

9. The order dated 08.02.2023 is, therefore, made absolute on the same conditions on which the interim bail vide order dated 08.02.2023 was granted.

10 Any violations of these conditions, if brought to the notice of the Court,

may entail recall/cancellation of the anticipatory bail granted.

11. The anticipatory bail application is allowed and disposed of.

12. Return the case diary.

JUDGE

Comparing Assistant