

GAHC010024092023



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

Case No. : AB/360/2023

DWIJENDRA NATH DEKA @ DWIJEN DEKA
S/O- LATE KAMALA KANTA DEKA, R/O- PARAMANANDA DALOI PATH,
W/NO. 3, RANGIA TOWN, DIST. KAMRUP, PIN- 781010, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. A M BORA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

11-04-2023

Heard Mr. A. M. Bora, learned Senior Counsel assisted by Mr. V.A. Choudhury, learned counsel for the petitioner. Also heard Mr. R.R. Kaushik, learned Addl. Public prosecutor, Assam for the State respondent.

The petitioner, namely, Dr. Dwijendra Nath Deka @ Dr. Dwijen Deka has filed an

application under Section 438 Cr.P.C. with a prayer for bail in connection with Rangia P.S. Case No.18/2023 registered under Sections 306 of the IPC.

The petitioner is a retired Associate Professor of Rangia College. An FIR dated 06.01.2023 was lodged by the informant alleging that her daughter who was a 6th semester TDC student of Krishna Kanta Handiqui State Open University in Rangia College went to appear in her examinations at Rangia College on 04.01.2023. On suspicion of resorting to unfair means she was expelled from the examination and was sent out of the examination hall. The present petitioner was the invigilator in the said examination and he had expelled the informant's daughter out of the examination hall and thereafter, the daughter of the informant came home and committed suicide. Accordingly, the mother of the deceased girl lodged an FIR which was received and registered as Rangia P.S. Case No.18/2023 under Sections 306 of the IPC.

The petitioner being apprehensive of his arrest approached this Court and this Court by order dated 08.02.2023 granted interim bail to the petitioner.

The case diary was called for along with the post-mortem report.

Learned Addl. PP submits that though the case diary has been received but the post-mortem report has not yet been received.

Learned Senior Counsel for the petitioner submits that the ingredients of Section 306 of the Cr.P.C. are not present in the instant case. The petitioner being an employee of the college was allotted to a duty of invigilator in the said examination on that date and being an invigilator it was his duty to ensure that no unfair means or unscrupulous means are adopted by the students. The daughter of the informant adopted to some unfair means because of which she was expelled from the examination and sent out from the examination hall. The act of expelling student was done in the interest of upholding and maintaining

the sanctity and the standard of the examination conducted as well as per the rules already notified for conducting the examinations.

Learned Senior Counsel for the petitioner submits that the unfortunate incident that had occurred cannot be attributed to the petitioner. Accordingly, learned Senior Counsel for the petitioner submits that the interim bail granted to the petitioner on 08.02.2023 may be made absolute.

The case diary produced has been perused. In the FIR itself it is mentioned that the deceased daughter of the informant committed suicide. There are no materials in the case diary to suggest that the petitioner had not co-operated with the investigation nor are there any materials to suggest that the grant of anticipatory bail for the petitioner will hamper the ongoing investigation.

Having heard the learned counsel for the parties and upon perusal of the case diary as well as the materials available in the case records, this Court is of the opinion that the interim bail granted by this Court can be made absolute as it will not hamper the investigation carried on by the police, since the petitioner has co-operated with the investigation.

In view of the above, the interim pre-arrest bail granted to the petitioner on 08.02.2023 is hereby made absolute on the same conditions. However, the petitioner shall continue to co-operate with the investigation and shall appear before the IO of the case as and when required.

The Anticipatory Bail petition stands allowed and disposed of.

Case diary be returned.

JUDGE

Comparing Assistant