

GAHC010027972023



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

Case No. : AB/404/2023

AHIYA MULLA
S/O- AHAMMAD ALI, R/O- VILL.- DHUPGURI, P.S. LAHARIGHAT, DIST.
MORIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE P.P., ASSAM

Advocate for the Petitioner : MR S M ABDULLAH P

Advocate for the Respondent : PP, ASSAM

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

13/06/2023

Heard Mr. M Rahman, learned counsel for the petitioner and Mr. M P Goswami, learned Additional Public Prosecutor, Assam for the State.

The petitioner, namely, **Ahiya Mulla**, has filed this application under Section 438 Cr.P.C. seeking pre-arrest bail apprehending his arrest in **Laharighat P.S. Case No. 349/2022** registered

under Sections 365/368/376/325/294/506/34 IPC corresponding to G.R. No. 1812/2022.

Perused the case diary placed before the Court today by Mr. M P Goswami, learned Additional Public Prosecutor, Assam.

As per the FIR of the case, daughter of the informant, a mother of two children on 07.08.2022 around 12 Noon, while returning home was forcefully taken away by the accused petitioner and kept in the house of two other accused persons and raped her against her will. When the local people came to know about the same, the accused persons took her to some other place. On getting the said information, when the informant on 11.08.2022 went to the house of the accused, she was misbehaved, physically assaulted and thrown out of the house of the accused persons. While the informant was proceeding towards the police station to inform about the said incident, she was threatened by the accused persons. The FIR also discloses that the victim, i.e., the daughter of the informant has been kept in some unknown place and the accused petitioner committed rape on her.

Accordingly, said FIR was registered as Laharighat P.S. Case No. 349/2022 under Sections 365/368/376/325/294/506/34 IPC.

Perused the statement of the victim recorded under Section 161 Cr.P.C. as well her statement recorded under Section 164 Cr.P.C. on 13.10.2022 by the learned Judicial Magistrate, First Class, Morigaon.

The statements of the independent witnesses recorded in the case diary reveals that the informant along with the victim went to the house of the petitioner, who are their relatives and with the parents of the petitioner, the informant argued with regard to certain land and due to the land dispute, the informant lodged the said FIR against the petitioner and the other accused persons of the case. The police note also indicated the same.

Considering the materials available in the case dairy, the Court is of the view that custodial interrogation of the petitioner, named above, is not warranted to investigate the said Laharighat P.S. Case No. 349/2022. As such, this pre-arrest bail application of the petitioner is accepted.

Accordingly, in the event of arrest of the petitioner, namely, Ahiya Mulla, in said Laharighat P.S. Case No. 349/2022 registered under Sections 365/368/376/325/294/506/34 IPC, he shall be released on bail on furnishing a bail bond of Rs.40,000/- with 2 (two) local sureties of the like amount to the satisfaction of the arresting authority, subject to the conditions that the petitioner shall - **(i)**

appear before the concerned Investigating Officer of said Laharighat P.S. Case No. 349/2022 **on or before 19.06.2023** and thereafter, as and when he is required for necessary investigation of the case; **(ii)** not leave the territorial jurisdiction of said Laharighat Police Station, without obtaining prior written permission from the concerned I/O of the case; **(iii)** not hamper with the investigation, or tamper with the evidence of the case and **(iv)** not, directly or indirectly, make any inducement, threat any family members of the victim 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.

Any violation of any of the aforesaid terms and conditions by the petitioner, named above, pre-arrest bail granted to him in said Laharighat P.S. Case No. 349/2022 shall stand automatically vacated.

Accordingly, this pre-arrest bail application stands allowed to the extent above.

Return the case diary.

JUDGE

Comparing Assistant