

GAHC010039952023



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

Case No. : AB/670/2023

KULDEEP HAZARIKA
S/O- LT. LAKHIPRASAD HAZARIKA, VILL- NATUN GAON, P.O. AND P.S.
JAGIROAD, DIST.- MORIGAON (ASSAM)

VERSUS

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

Advocate for the Petitioner : MR S CHAUHAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 19.04.2023

Heard Mr. B. Pushilal, learned counsel appears on behalf of Mr. S. Chauhan, learned counsel appears for the petitioner. Also heard Mr. B. B. Gogoi, learned Additional Public Prosecutor appearing for the State of Assam.

2. The Anticipatory Bail petition has been filed by the

petitioner namely, Sri Kuldeep Hazarika, seeking Anticipatory bail as he is apprehending arrest in connection with Dispur Police Station Case No. 60/2023 under Sections 376/325/506/366/511/34 of Indian Penal Code.

3. The learned counsel for the petitioner submits that the petitioner is an employee under Guwahati Municipal Corporation and presently working at GMC Office, Lakhtokia, Guwahati. In pursuance to an FIR dated 09.01.2023 filed by the informant, Sri Manika Bezbaruah, the aforesaid case was registered. In the said FIR it was alleged that the petitioner had assured the informant of marriage and had kept her in rented premises near Down Town Hospital, Guwahati and started to maintain physical relationship against her wishes. It was further alleged that the accused/petitioner had assaulted the informant. The further allegation is that the photographs were taken and obscene videos were made by the accused person of the informant and the accused person had threatened that the photographs and videos shall be made viral in the event she refuses to accede to his request of physical relationship. Pursuant to the lodging of the FIR, the matter is under investigation. Apprehending arrest the petitioner has filed the present anticipatory bail application.

4. The learned counsel for the petitioner submits that this is the third FIR filed by the informant in respect of the same matter. Referring to the page 22 of the bail petition, he submits that the first FIR was lodged on 17.10.2022 making

similar allegations against the petitioner. The said FIR was registered as Jagiroad Police Station Case No. 366/22 under Sections 294/325/420/406/427 of IPC. In connection with the said FIR the petitioner was arrested and was also subsequently released on bail by order dated 07.11.2022 by the Court of Additional Chief Judicial magistrate, Morigaon, Assam.

5. The learned counsel for the petitioner submits that the informant had filed an objection in this present bail application. The learned counsel for the petitioner submits that from the objection filed it is apparent that another FIR dated 07.11.2022 was sought to be filed by the same informant making similar allegations against the petitioner. The said FIR, however, was not registered and the competent authority in the Panbazar, Police Station informed the informant that the informant should approach the competent Court for filing necessary cases against the accused/petitioner.

6. It is the submission of the learned counsel for the petitioner that now the third FIR, namely, the FIR dated 09.01.2023 has been filed and the same is registered as Dispur Police Station Case No. 60/2023 under Sections 376/325/506/366/511/34 of IPC. Learned counsel for the petitioner submits that there are no ingredients of the sections alleged as both the informant and the accused person are adults and well known to each other. There was no attempt by the accused/petitioner to enter into any physical relationship with the informant without her consent.

7. This Court called for the case dairy along with the Medical Report as well as the statement under Section 164 Cr.P.C. The learned Additional Public Prosecutor has produced the case dairy.

8. Learned counsels for the parties have been heard. The case dairy produced has been perused.

9. From the case dairy and the statement of 164 Cr.P.C, it appears that the informant and the accused/petitioner were in a relationship and the informant states that there was a physical relationship between the accused/petitioner and the informant as well. However, subsequently, the photographs were taken by the accused/petitioner of the informant in compromising position and the petitioner had threatened the informant that if she does not enter into physical relationship with the petitioner, then the same will be made viral. The Medical Report available in the Case Diary does not reveal any external injuries. Gyneacological test, which were sought to be conducted were declined by the informant.

10. From the Case diary it is also seen that, there are no materials available regarding the mobile phone which was seized and details of any such photographs stated to have been taken by the accused/petitioner.

11. Upon perusal of the case dairy, this Court finds that there are no materials incriminating in respect of the accused/petitioner to suggest that grant of anticipatory bail at this stage as prayed for the accused/petitioner would hamper

the investigation carried on by the police in respect of the FIR lodged by the informant. Accordingly, this Court is of the view that in the event of his arrest in connection with the Dispur Police Station Case No. 60/2023 under Sections 376/325/506/366/511/34 of Indian Penal Code, the petitioner be released on a bail bond of Rs.20,000/- (Rupees twenty thousand) only with a local surety of like amount to the satisfaction of the Arresting Authority. The bail granted however, is subjected to the following conditions:-

1. That the petitioner shall appear before the Investigating Officer within 7(seven) days and co-operate in the investigation as and when required;
2. The petitioner shall not leave the territorial jurisdiction of the police station, without prior written permission from Officer-in-Charge, Dispur Police Station.
3. That the petitioner shall not hamper or tamper with the investigation in any manner; and
4. That the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person/witness acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer in connection to this Police Station Case.

- 12.** If any of the conditions are found to be violated then the Investigating Officer shall be at liberty to seek cancellation of the bail granted to the petitioners.
- 13.** Anticipatory bail petition is accordingly disposed of.
- 14.** Return the Case Diary.

JUDGE

Comparing Assistant