

GAHC010056432023



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

Case No. : AB/991/2023

HABIBUR RAHMAN
S/O LATE AKBAR ALI
R/ CHUKULIBHARIA
P.S. NORTH LAKHIMPUR
DIST. LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MS. S G BARUAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 21.04.2023

Heard Mr. S. G. Baruah, learned counsel appears for the petitioner. Also heard Mr. R. R. Kaushik, learned Additional Public Prosecutor appearing for the State of Assam.

This Anticipatory bail petition has been filed by the petitioner, namely, Habibur Rahman, apprehending arrest in connection with North Lakhimpur Police Station Case No. 401/2022, corresponding to GR Case No. 856/2022 under Section 376 of IPC and registered as PRC Case No. 281/2023, pending before the Court of learned Chief Judicial Magistrate, Lakhimpur, North Lakhimpur.

By order dated 21.03.2023 passed by this Court, scanned copy of the LCR was called for. It is seen that the charge-sheet has been filed on 29.10.2022 vide Charge-Sheet No. 672/2022 under Section 376 of IPC.

From the scanned copy called for from the Court, it is seen that the Court of Chief Judicial Magistrate, Lakhimpur, North Lakhimpur by order dated 01.02.2023 has taken cognizance of the offence under Section 376 of IPC against the petitioner, who is shown as absconder in the charge-sheet. The matter is now fixed for appearance. The petitioner apprehends that he shall be taken into custody upon his appearance before the Court of Chief Judicial Magistrate, Lakhimpur, North Lakhimpur in pursuance to the summons served on him.

This Court is of the view that in the face of law laid down by the Apex Court in ***Siddharth Vs State of Uttar Pradesh and Anr***, reported in ***(2022) 1 SCC 676*** and Judgment dated 20.03.2023 rendered in ***Mahdoom Bava Vs Central Bureau of Investigation*** in Criminal Appeal No.....of 2023

(Arising out of SLP (Crl) No. 376 of 2023), it is no longer *res integra* that appearance of the accused persons pursuant to summons being issued do not necessarily in all cases require orders directing the accused to be taken into custody as a matter of course. When the law has already been laid down by the Apex Court, no further orders are necessary to be passed by this Court.

In view of the law laid down by the Apex Court, this anticipatory bail petition is closed directing the petitioner to comply with the order dated 01.02.2023 and appear in response to the summons received in connection with PRC Case No. 281/2023, before the Court of learned Chief Judicial Magistrate, Lakhimpur, North Lakhimpur.

Upon his appearance, the petitioner is at liberty to make necessary prayers before the Competent Court and the Competent Court upon consideration of the matter on its merits and taking into consideration the law laid down by the Apex Court will pass appropriate order.

This Anticipatory Bail application is accordingly disposed of in terms of the above.

JUDGE

Comparing Assistant