

GAHC010061472023



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

Case No. : AB/1036/2023

AKRAM HUSSAIN
S/O LATE BASHI SHEIKH
R/O HATISHOLAPAM
P.S. CHHAYGAON
DIST. KAMRUP, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR H R A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

27-04-2023

Heard Mr. H.R.A. Choudhury, learned Senior Counsel assisted by Mr. S. Hoque, learned counsel for the petitioner. Also heard Ms. S.H. Borah, learned Additional Public Prosecutor, Assam.

This Anticipatory Bail petition has been filed by the petitioner, namely, Akram Hussain, who is apprehending his arrest in connection with an FIR dated 24.02.2023 filed by the informant, namely, Jahirul Islam. The said FIR was received and registered as Chhaygaon P.S. Case No.95/2023 registered under Sections 313/34 of the IPC.

The case diary was called for and today learned Addl. P.P. has produced the same.

On being perusal of the case diary it is seen that the victim who is the wife of the informant in her own statement recorded under Section 164 Cr.P.C. has stated that she wanted to purchase a medicine for stomach pain from the petitioner which was initially refused by the petitioner and subsequently, she purchased it from the accused no.2. Pursuant to consumption of the tablets her health condition deteriorated and accordingly, she was admitted to Gauhati Medical College and Hospital. The case diary does not contain any report of any gynaecological test conducted on the victim for determination of her health condition. In her statement recorded under Section 164 Cr.P.C. she had stated that the petitioner had aborted a 10 weeks old fetus without her knowledge and because of which her health started deteriorating. However, due to the absence of proper medical test reports it is not possible to ascertain the veracity of the allegations made against the petitioner at this stage of investigation. Investigation is not concluded. No materials are noticed from the case diary which suggest that the grant of bail to the petitioner at this stage will cause any impediment to the investigation carried on by the police in respect of the case.

Accordingly, this Court is of the opinion that the prayer for anticipatory bail can be allowed.

It is provided that in the event of arrest of the petitioner, named above, in connection with the above noted case, he shall be released on interim pre-arrest bail upon furnishing a bail bond of Rs.30,000/- (Rupees Thirty Thousand) with 2 (two) local sureties of like amount to the satisfaction of the arresting authority, subject, of course to the following conditions:

- (i) That the petitioner shall appear before the investigating Officer within 10 (ten) days from today;
- (ii) That the petitioner shall not hamper or tamper with the investigation in any manner;
- (iii) That the petitioner shall not, directly or indirectly, make any inducement, threat 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 office; and
- (iv) That the petitioner shall not leave the jurisdiction of Chhaygaon P.S without obtaining prior written permission from the concerned investigating officer of the case.

In the event, the petitioner is found to have violated any of the above conditions or is found to be involved in other offences, the Investigating Officer shall be at liberty to apply for recall/cancellation of the interim bail granted to the petitioner.

The Anticipatory Bail application stands disposed of.

Return the case diary.

JUDGE

Comparing Assistant