

GAHC010062852023



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

Case No. : AB/1049/2023

RABIJIT DUTTA CHOUDHURY
S/O SRI LATE R.N. DUTTA CHOUDHURY
R/O HOUSE NO. 27, JANAPATH KAHNAPARA, GUWAHATI, P.S.
KHANAPARA, DIST. KAMRUP (METO),
ASSAM-781022
PH. 70868-02926

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. B D KONWAR SR. ADV.

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

Date : 20-11-2023

Heard Mr. BD Konwar, learned Senior counsel assisted by Mr. R Kalita, learned counsel for the petitioner. Also heard Mr. D Das, learned Additional Public Prosecutor, Assam. The learned counsel

appearing for the informant while assisting the learned Additional Public Prosecutor has also raised objection in granting bail.

2. This is an application filed under Section 438 Cr.P.C. praying for granting pre-arrest bail to the petitioner in connection with All Women Police Station Case No. 11/2023 under Sections 354/354(A) of the IPC.

3. This court while calling for the case diary by its order dated 22.03.2023 granted interim protection to the petitioner, considering the service dispute involving the petitioner and the informant. While passing such order, this court also considered that the petitioner had co-operated with the Investigating Authority even before filing the present application.

4. The case diary as called for is produced and same is perused. It is seen from the case diary that the petitioner had got his statement recorded under Section 161 Cr.P.C. before the I/O and he has also co-operated with the Investigating Authority.

5. The case diary also reflects that statement of witnesses more particularly, the employees of the office, wherein the petitioner and the informant worked have also been recorded.

6. From the material available on record, it is seen that it is the allegation of the informant that the petitioner continued sexual harassment by touching her hand, forehead etc since 2022 and the FIR was lodged on 25.02.2023.

7. The fact also remains that the petitioner is Director of SAMETI and informant is also working as Assistant Technology Manager under the petitioner. It is also available on record that pursuant to an order

dated 15.02.2023 passed by the Director, Agriculture, Assam, the service of the informant was withdrawn from the office of the Director, SAMETI and she was reverted back to her original place of posting i.e. Office of the District Agricultural Officer, Kamrup, Ulubari. The petitioner issued another order on 16.02.2023 and asked the informant to hand over all the official files and other documents. Similar order was passed on 18.02.2023. Thereafter, when the informant did not join the transferred place of posting by notification dated 18.02.2023, the District Agriculture Officer, Kamrup intimated such fact to the Director of Agriculture. Thereafter, on 20.02.2023, the informant requested through e-mail to her employer seeking leave on medical ground. Thereafter, on 25.02.2023, the aforesaid FIR has been lodged alleging sexual harassment by the petitioner from 17.09.2022. The informant approached this court by filing a writ petition assailing such action of the Director in reverting her to her original place of posting. However, no material is available to suggest that the petitioner has raised the aforesaid allegation either in her petition or in the writ petition.

8. Be that as it may, considering the fact that the petitioner has been duly co-operating with the Investigating Authority and also got his statement recorded and there is no material even to remotely suggest that the petitioner has tried to hamper and temper with the evidence, this court is of the view that no custodial interrogation shall be necessary in the given facts of the present case inasmuch as the informant is no more working under the petitioner. Accordingly, the interim order dated 22.03.2023, granting the interim protection to the

petitioner is hereby made absolute in the same terms and conditions.

9. The case diary be returned back.

JUDGE

Comparing Assistant