

GAHC010069132023



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

Case No. : AB/1186/2023

MD. NURUL HUSSAIN
S/O- LATE SAHED ALI, R/O- VILLAGE - KODOMONI PATHAR,
P.O AND P.S- BATADRAVA,
DIST- NAGAON, ASSAM, PIN-782122

VERSUS

THE STATE OF ASSAM
REP, BY PP, ASSAM

Advocate for the Petitioner : MR. K R BORA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 27.04.2023

Heard Mr. K. R. Bora, learned counsel appearing for the petitioner. Also heard Ms. S. H. Borah, learned Additional Public Prosecutor appearing for the State.

2. This Anticipatory Bail petition has been filed by the

petitioner, Md. Nurul Hussain, apprehending arrest in connection with Batadrava Police Station Case No. 34/2023 under Sections 448/294/506/427/376/511/34 of IPC.

3. It is submitted by the learned counsel for the petitioner that an FIR dated 02.03.2023 was lodged by the informant, one, Rezina Khatun, making allegations that the petitioner had attempted to commit sexual assault on the informant. She managed to save herself from the clutches of the petitioner, who is accused No.1 in the FIR. Thereafter, accused No. 2, 3, 4 and 5 damaged the house of the petitioner and threatened to burn her house with petrol.

4. The learned counsel for the petitioner submits that the entire allegations are false and concocted. It is submitted that it is the informant, who attempted to assault and in a pre-planned manner attempted to kill the petitioner by calling him to her house, as soon as the petitioners screams were heard, the family members came and rescued him. The informant was having illicit relationship with another person and when the said fact was came to be known by her husband, she was sent back to the paternal house and give 'talaq' by her husband.

5. The learned counsel for the petitioner submits that in this context an FIR dated 03.03.2023 has been lodged by the daughter of the petitioner, which is registered as Batadrava Police Station case No. 36/2023 under Sections 341/326/505/307/34 of IPC.

6. This Court by order dated 31.03.2023 called for the case diary along with the Injury Report of the victim as well as the statements recorded under Section 164 Cr.P.C.

7. In reference to the order dated 21.04.2023 the case diary along with her statements have been produced by the learned Addl. P.P. The learned Addl. P.P submits that there are materials, which incriminates the petitioner and therefore, the prayer for anticipatory bail ought not to be granted as it will hamper the investigation carried on.

8. I have heard the learned counsels for the petitioner as well as the learned Additional Public Prosecutor for the State. The Case Diary produced has also been perused.

9. Upon perusal of the case diary it is seen that the statements of the informant under Section 164 Cr.P.C has been recorded. In her statements she has clearly implicate one, Nur Hussain, who stated to be her Uncle-in-law. The allegations made in the FIR are maintained by the petitioner in her statement under Section 164 Cr.P.C. She, however, has refused to undergo medical examination. There are statements of witnesses record also implicate the petitioner.

10. Upon due perusal of the case diary, it is seen that there are sufficient incriminating materials against the petitioner at this stage of investigation. The allegations are severe in nature.

11. In that view of the matter, taking into account the

stage of the progress of investigation as well as the gravity of the offences alleged, the prayer for anticipatory bail need not be granted at this stage.

12. From the reasons above, the Anticipatory petition is accordingly dismissed.

13. Return the Case Diary.

JUDGE

Comparing Assistant