

GAHC010085952023



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

Case No. : AB/1459/2023

ABDUR REJJAK
S/O- ABU SAYED, VILL- KUSHBARI, P.S. MERERCHAR, DIST.-
BONGAIGAON (ASSAM), PRESENTLY RESIDE AT VILL- TINKONIAPARA,
P.S. MORNOI, DIST.- GOALPARA, (ASSAM)

VERSUS

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

Advocate for the Petitioner : MR. P RAHMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 03.05.2023

Heard Mr. P. Rahman, learned counsel appears for the petitioner. Also heard Mr. B. Sarmah, learned Additional Public Prosecutor appearing for the State of Assam.

2. This Anticipatory bail petition has been filed by the petitioner, namely, Abdur Rejjak, apprehending arrest in connection with Mornoi Police Station Case No. 32/2023, under Section 493/376(2) (n)/342/325 of IPC.

3. The learned counsel for the petitioner submits that an FIR dated 13.08.2023 was lodged by the informant, one, Maina Khatun alleging that the informant and the petitioner were in a relationship for the past 6 years and that a female child was born and she is about 7 months old. The further allegation is that the petitioner attempted to kill the informant by assaulting her and inflicted injuries upon her by beating her with a bamboo.

4. It is submitted that the allegations made in the FIR are false. It is further submitted that the ingredients under Section 376 of IPC are not present.

5. Learned counsel for the petitioner submits that the prayer for bail be granted as the petitioner is apprehending arrest in connection with Mornoi Police Station Case No. 32/2023, under Section 493/376(2) (n)/342/325 of IPC as he is presently employed as a Police Constable.

6. This Court vide order dated 21.04.2023 had called for the Case Diary.

7. Today, Mr. B. Sarmah, learned Additional Public Prosecutor has produced the case diary.

8. Case Diary produced has been carefully perused. The statement of the informant under Section 164 Cr.P.C is available. From the statement made by the informant under Section 164 Cr.P.C, it is seen that the informant and the petitioner had been in a relationship for the past 6 years and

that she became pregnant as a result of their relationship. It is also evident that her marriage with one Rahim Ali is subsisting and that she is staying in the house of her husband- Rahim Ali.

9. The Medical examination has been refused by the informant as per the endorsement made by the Senior Medical and Health Officer, Civil hospital, Goalpara. The statement of the husband of the informant also reveals that there were some relationship between the petitioner and the informant.

10. Upon hearing the learned counsels for the parties and upon due consideration of the materials as available in the case diary, this Court is of the view that *prima facie* there are no materials found from the case diary, which incriminates the petitioner in so far as the allegations of rape and assault are concerned, the prayer for grant of anticipatory bail in connection with aforementioned case can be considered.

11. From the case diary, it is evident that there was a relationship between the petitioner and the informant for the past several years. There are no materials available in the case diary which suggests that grant of Anticipatory Bail to the petitioner at this stage of the investigation will hamper the investigations carried on. Accordingly, the anticipatory bail petition is allowed. It is directed that in the event of the arrest of the petitioner, in connection with the aforementioned case, he shall be released on furnishing a bail bond of Rs.30,000/- (Rupees thirty thousand) only with one local surety of like amount to the satisfaction of the Arresting Authority. The bail

granted, however, is subject to the following conditions:-

1. That the petitioner shall appear before the Investigating Officer within 10(ten) days from today and such other dates as required and co-operate in the investigation as and when required;
2. The petitioner shall not leave the jurisdiction of the police station, without prior written permission from Officer-in-Charge, Moronoi 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.

If any of the conditions are found to be violated by the petitioner then the Investigating Officer shall be at liberty to seek cancellation of the interim bail granted to the petitioner.

12. Anticipatory bail petition is accordingly disposed of.

13. Return the Case Diary.

JUDGE

Comparing Assistant