

GAHC010092182023



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

Case No. : AB/1558/2023

ABU SAMA
S/O HAJI SAFER ALI MUNSHI,
R/O VILL- NO. 1 BHATNAPAITY CHAR, P.O. KADAMTALA
DIST. ALOPATICHAR,
DIST. BARPETA, ASSAM
PRESENTLY RESIDING AT BEHARBARI SONKUCHI, NEAR SPRING DALE,
INTERNATIONAL SCHOOL, P.S. BASISTHA
DIST. KAMRUP (M), ASSAM
PIN-781029

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A U CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

23/06/2023

Heard Mr. S Islam, learned counsel for the petitioner and Mr. K K Parasar, learned Additional Public Prosecutor, Assam for the State.

The petitioner, namely, **Abu Sama**, has filed this application under Section 438 Cr.P.C. seeking pre-arrest bail apprehending his arrest in **Basistha P.S. Case No. 165/2023** registered under Sections 448/354A(i)(ii)/376/ 511/294/506 IPC corresponding to G.R. No. 2153/2023.

Perused the case diary placed before the Court today by Mr. K K Parasar, learned Additional Public Prosecutor, Assam.

By order dated 04.05.2023, the Court granted interim bail to the petitioner in said Basistha P.S. Case No. 165/2023 pursuant to which he appeared before the concerned Investigating Officer of the case.

Mr. K K Parasar, learned Additional Public Prosecutor, Assam from the case diary submitted that though the complainant in her 164 Cr.P.C. statement alleged that the petitioner forcefully tried to have physical relation with her but the statement of the independent witnesses recorded by the concerned Investigating Officer of the case reflects that the complainant is a tenant and whenever the petitioner used to go to the house of the complainant, she used to misbehave and forcefully send him out telling him not to collect rent from her.

In her 164 Cr.P.C. statement, the complainant also stated that the petitioner made an attempt, but she remained silent with regard to the acts on the part of the petitioner as alleged in the FIR.

Considering the materials available in the case diary, the Court is of the view that custodial interrogation of the petitioner, named above, is not warranted to investigate the said Basistha P.S. Case No. 165/2023. As such, this pre-arrest bail application of the petitioners in said Basistha P.S. Case is accepted.

The petitioner, namely, **Abu Sama** is already on interim bail in said **Basistha P.S. Case No. 165/2023** granted to him earlier by this Court on 04.05.2023 and the same is hereby made absolute on the terms and conditions that the petitioner shall - **(i)** appear before the concerned Investigating Officer of said Basistha P.S. Case No. 165/2023 as and when he is required for necessary investigation of the case; **(ii)** not leave the territorial jurisdiction of said Basistha Police Station, without obtaining prior written permission from the concerned I/O of the case; **(iii)** not hamper with the investigation, or tamper with the evidence of the case and **(iv)** 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 officer.

Any violation of any of the aforesaid terms and conditions by the petitioner, named above, pre-arrest bail granted to him in said Basistha P.S. Case No. 165/2023 shall stand automatically vacated.

Return the case diary.

Accordingly, this pre-arrest bail application stands allowed to the extent above.

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JUDGE

Comparing Assistant