

GAHC010096372023



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

Case No. : AB/1628/2023

HIMANGSHU RAY @ HIMANGSHU KR RAY
S/O SAILENDRA NARAYAN RAY @ SURENDRA NARAYAN RAY
R/O VILL- DHAKNABARI, P.S. ABHAYAPURI, IN THE BONGAIGAON,
ASSAM

VERSUS
THE STATE OF ASSAM
TO BE REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR A W AMAN
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 24.05.2023

Heard Mr. S. Nawaz, learned counsel appears for the petitioner. Also heard Mr. B. B. Gogoi, learned Additional Public Prosecutor appearing for the State of Assam.

2. This Anticipatory bail petition has been filed by the petitioner, namely, Himangshu Ray @ Himangshu Kr. Ray, apprehending arrest in connection with Abhayapuri Police Station Case No. 182/2023, under Sections 376 of IPC.

3. The learned counsel appearing for the petitioner submits that by an FIR dated 24.04.2023 lodged by the informant, one Dineshwari Pathak, it is alleged that the petitioner had established physical relationship with the informant for the past 2/3 years by offering to marry her. When the family members of the informant wanted to get her married with another person, then the petitioner did not let her get married and kept assuring that he would marry the informant. On 15.04.2023 at around 9.30 p.m, when the petitioner had come to the house of the informant, he was accosted by the neighbours and he then promised to marry the informant on 17.04.2023. Subsequently, he withdrew from his offer of marriage.

4. The learned counsel for the petitioner submits that the petitioner is not at all connected with the offences alleged. However, in view of the investigations being carried on by the police he apprehends arrest by the police on mere suspicion and as such he prays for grant of anticipatory bail.

5. This Court by order dated 10.05.2023 had called for the case diary along with the statement of the informant recorded under Section 164 Cr.P.C and the medical report.

6. The case dairy along with the medical report and the statement of the informant recorded under Section 164 Cr.P.C. is produced by Mr. B.B. Gogoi, learned Addl. P.P for the State of Assam.

7. Perusal of the case diary reveals that the medical report does not indicate any injuries on the informant. No external injuries are also reported. The report of the gynecological test conducted also gave negative results. Although the allegations made in the FIR are reiterated by the informant in her statements made under Section 164 Cr.P.C., the same does not appear to be supported by the opinion rendered by the Medical Expert. As per the FIR the informant and the petitioner had established physical relationship from past 2-3 years. Such physical relationships in the absence of materials to the contrary available, will have to be presumed to be consensual relationship. Perusal of the case diary does not reveal that there are any other incriminating materials which could suggest that the grant of anticipatory bail of the petitioner at this stage of investigation will hamper the investigation carried on by the Investigating Officer.

8. Accordingly, this Court is of the view that the prayer for anticipatory bail by the petitioner can be granted. Accordingly, in the event of arrest of the petitioner in connection with Abhayapuri Police Station Case No. 182/2023, registered under Sections 376 of IPC, the petitioner is released on a bail bond of Rs.30,000/- (Rupees thirty thousand) only with one (1) local surety of like amount to the satisfaction of the Arresting Authority. The bail granted however, is subjected to the following conditions:-

1. That the petitioner shall appear before the

Investigating Officer within 10(ten) days and co-operate in the investigation as and when required;

2. The petitioner shall not leave the territorial jurisdiction of the police station, without prior written permission from Officer-in-Charge, Abhayapuri 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.

9. 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 bail granted to the petitioner.

10. Anticipatory bail petition is accordingly disposed of.

11. Return the Case Diary.

JUDGE

Comparing Assistant