

GAHC010097282023



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

Case No. : AB/1630/2023

MD. MONUR UDDIN @ MONAR UDDIN @ MANAR UDDIN
S/O LATE ABDUL JALIL
R/O VILL- AUTOLABORI, P.O. AND P.S.LAHORIGHAT,
DIST. MORIGAON, ASSAM
PIN-782127

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. P K SARMA

Advocate for the Respondent : PP, ASSAM

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

16-05-2023

Heard Ms. B. Bhuyan, learned counsel for the petitioner and Mr. B. Sarma, learned Additional Public Prosecutor, Assam for the State. Also heard Mr. N. Uddin, learned counsel for the informant.

By this application filed under Section 438 Cr.P.C., the petitioner, namely, **Md. Monur Uddin @ Monar Uddin @ Manar Uddin**, apprehending his arrest, is seeking pre-arrest bail in Lahorighat Police Station Case No. 108/2023 registered under Sections 448/354(B) IPC, corresponding to G.R. Case No. 606/2023.

As per the FIR dated 17.03.2023 lodged by the victim that the accused taking advantage of absence of her husband entered into her house on the night of 16.03.2023 at around 10:30 pm, gagged her mouth and tried to pull her apparels. However, as she somehow could release herself from the accused and made hue and cry and on hearing it, the neighbours came to her house and caught the accused red-handed. The victim in the FIR also stated that on earlier occasions, the accused raped many women of the village.

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

The victim was medically examined on 18.03.2023 by the Senior Medical and Health Officer, STHG Civil Hospital, Morigaon.

The medical report of the victim reflects that there were no external or internal injuries on her body or private parts; her age is about 22 to 25 years and as per the radiology report, there was no evidence of any sexual intercourse.

From the statements of the witnesses of the case, it is revealed that the petitioner was found in the house of the informant/victim on the date of said incident at night and they saw both of them were pulling and pushing to each other.

However, the case diary does not reveal that the petitioner is a habitual offender as alleged in the FIR regarding his involvement in crime relating to woman like outraging the modesty of woman or that of rape.

Considering the above, the Court is of the view that custodial detention of the petitioner, named above, is not warranted to investigate the said Lahorighat P.S. Case No. 108/2023. As such, this pre-arrest bail application of the petitioner is accepted.

Accordingly, in the event of arrest of the petitioner, namely, **Md. Monur Uddin @ Monar Uddin @ Manar Uddin** in Lahorighat P.S. Case No. 108/2023 registered under Sections 448/354(B)

IPC, he shall be released on bail on furnishing a bail bond of Rs.40,000/- with 2 (two) local sureties of the like amount to the satisfaction of the arresting authority, subject to the conditions that the said petitioner – **(i)** shall appear before the concerned Investigating Officer of said Lahorighat P.S. Case No. 108/2023 **on or before 22.05.2023** and thereafter, as and when he is required for necessary investigation of the case; **(ii)** shall not leave the territorial jurisdiction of Lahorighat Police Station, without obtaining prior written permission from the concerned Investigating Officer of the case, **(iii)** shall not hamper with the investigation or tamper with the evidence of the case and **(iv)** shall 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 or her 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, the pre-arrest bail granted to him in said Lahorighat P.S. Case No. 108/2023 shall stand automatically vacated.

However, it is made clear that in the event of submission of charge-sheet in said Lahorighat P.S. Case No. 108/2023 corresponding to G.R. Case No. 606/2023, on taking cognizance of the offence against the petitioner in said Lahorighat P.S. Case/ G.R.Case No., noted above, the petitioner shall appear before the appropriate Trial Court for his regular bail.

With the above observation and direction, this anticipatory bail application stands allowed to the extent above.

Return the case diary.

JUDGE

Comparing Assistant