

GAHC010101422023



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

Case No. : AB/1721/2023

AKBAR ALI
S/O NAZIR UDDIN
VILL- PANIKHAITI CHAR
P.S. SUALKUCHI
DIST. KAMRUP, ASSAM
PH. NO. 8638381728

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. S I BORA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 18.07.2023

Heard Mr. S. I. Bora, learned counsel for the petitioner. Also heard Mr. K. K. Das, learned Additional Public Prosecutor for the State.

This is an application under Section 438 of the Code of Criminal Procedure, 1973 filed by the petitioner, namely, *Akbar Ali* who is apprehending his arrest in

connection with Hatigaon Police Station Case No. 59/2023 under Sections 325/307/34 of IPC.

The accusation against the present petitioner is that one Hasem Ali lodged an FIR before the Officer-in-Charge of Hatigaon Police Station on 10.02.2023, *inter alia*, alleging that his daughter was married to one Gamcher Ali about two years prior to the lodging of the FIR. However, owing to the matrimonial differences, his daughter divorced the accused No. 1 and used to reside separately doing her door to door work. It is alleged in the FIR that on 09.02.2023 at about 4.00 p.m. when the daughter of the first informant was doing her work in the house of Gais Uddin situated at Ghoramara, Hatigaon, the present petitioner along with the husband of the victim indulged in quarrel and they threw her from the third floor of the RCC building and thereafter fled away. On receipt of the said FIR, Hatigaon P.S. Case No. 59/2022 was registered.

Learned counsel for the petitioner has submitted that on the fateful day, the petitioner met the daughter of the first informant as well as Gamcher Ali. However, he left that place and whatever has happened had actually happen in between the Gamcher Ali and his wife and he is not involved in the offence alleged against him.

On the other hand, leaned Additional Public Prosecutor have placed the case diary which was called for in connection with this case.

I have perused the case diary.

Leaned Additional Public Prosecutor also submits that the victim has in her statement under Section 161 Cr.P.C. given to the Investigating Officer implicated the present petitioner along with her husband alleging that both of them threw her from the third floor of the RCC building. The owner of the RCC building has also implicated the present petitioner. Leaned Additional Public Prosecutor has also pointed out that from the injury report which is available in the case diary, it

appears that the injuries sustained by the victim are grievous in nature.

Considering the nature of injuries sustained by the victim and as well as incriminating materials against the present petitioner, this Court is of the considered opinion that the present case is not a fit case to grant an order under Section 438 Cr.P.C. in favour of the present petitioner.

Accordingly, prayer for anticipatory bail is hereby dismissed.

Let the case diary be returned back.

JUDGE

Comparing Assistant