

GAHC010103352023



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

Case No. : AB/1724/2023

BIKI DAS
S/O- LATE KHITISH CH. DAS, R/O- H/NO. 13, BIRUBARI, NIZARAPAR, P.S.
PALTANBAZAR, DIST. KAMRUP(M), ASSAM

VERSUS

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

Advocate for the Petitioner : MR. A GANGULY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

29.05.2023

Heard Mr. A. Dutta, learned counsel for the petitioner and Mr. B.B. Gogoi, learned Addl. Public Prosecutor, Assam for the State.

2. This anticipatory bail application has been filed by the petitioner, namely, **Biki Das**, apprehending arrest in connection with Dispur P.S. Case No. 707/2023 under Section 366 of the IPC.

3. It is submitted that by an FIR dated 21.04.2023 was lodged by the informant. In the said FIR, the informant reported about her daughter who was missing since about 12.00 PM from 20.04.2023. It was also stated that from information available, she came to be aware that she was in the petitioner's mother's house at Birubari, Nizarapar at about 2.00 PM. Subsequently, enquiries were made but the missing girl could not be found. The FIR was received and registered as Dispur P.S. Case No. 707/2023 under Section 366 of the IPC.

4. The learned counsel for the petitioner submits that the petitioner is not at all connected with the offences alleged rather it is the daughter of the informant who voluntarily came to meet the petitioner and refused to go back to her parent's house. The learned counsel for the petitioner submits that the daughter of the informant is 18 years as per the Birth Certificate, which is enclosed as Annexure-1 to the bail petition issued by the competent authorities. Both the petitioner and the daughter of the informant are known to each other and they are in relationship. As such, in the absence of any specific allegations made in the FIR against the petitioner, prayer for anticipatory bail ought to be granted.

5. This Court had earlier called for the case diary. The case diary called for has been presented along with the statement of the victim recorded under Section 164 Cr.P.C. by the learned Addl. PP.

6. The case diary received and has carefully perused.

7. The daughter of the informant in her statement made under Section 164 Cr.P.C did not implicate the petitioner. The petitioner also appeared before the I.O and his statement has already been recorded.

8. Under such circumstances, this Court is of the view that no useful purpose will served by any custodial interrogation that may be resorted to by the I.O. during the course of investigation.

9. Careful perusal of the case diary does not reveal any materials which can

incriminate the petitioner at this stage of investigation. Accordingly, this court is of the view that prayer for anticipatory bail can be granted.

10. Therefore, it is provided that in the event of arrest of the petitioner, named above, he shall be released on pre-arrest bail, in connection with the above noted case, on furnishing bail bond of **Rs.25,000/- (Rupees Twenty Five Thousand only)** with one local surety of like amount to the satisfaction of the arresting authority, subject, of course, to the following conditions:

(i) That the petitioner shall appear before the Investigating Officer within 10 days from today;

(ii) That the petitioner shall not hamper or tamper with the investigation in any manner;

(iii) That the petitioner 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 from disclosing such facts to the Court or to any police officer; and

(iv) That the petitioner shall not move out of the jurisdiction of Dispur P.S without obtaining prior permission from the concerned Investigating Officer of the case.

11. In the event, the petitioner is found to have violated any of the above conditions or is found to be involved in other offences, the Investigating Officer shall be at liberty to apply for recall/cancellation of the pre-arrest bail granted to the petitioner.

12. This anticipatory bail application stands disposed of.

13. Return the case diary.

JUDGE

Comparing Assistant