

GAHC010104762023



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

Case No. : AB/1738/2023

MONIRUL HOQUE
S/O ABDUS SAMAD
R/O BANGALIPARA PART-II (URAN FOLIMARI), P.O. AND P.S. BILASIPARA,
DIST. DHUBRI, ASSAM

VERSUS

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

Advocate for the Petitioner : MR. A A R KARIM

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

31-05-2023

Heard Ms. R R Borah, learned counsel for the petitioner and Mr. B Sharma, learned Additional Public Prosecutor, Assam for the State.

2. By this application under Section 438 CrPC, the petitioner, namely, **Monirul Hoque** has prayed for his pre arrest bail in Bilasipara P.S. Case No. 239/2022 corresponding to G.R. Case No. 445/2022 registered under Sections 376/420/406/498/506/34 IPC (earlier Dotma P.S. Case No.

13/2022 corresponding to G.R. Case No. 275/2022 registered under Sections 376/420/406/498/506/34 IPC).

3. The petitioner is on interim bail in said Bilasipara P.S. Case No. 239/2022 corresponding to G.R. Case No. 445/2022 granted to him earlier on 18.05.2023.

4. The Case Diary is up to 11.05.2023.

5. It is seen from the statement of the informant/victim recorded under Section 164 CrPC on 11.04.2022 that though she alleged commission of rape against the accused persons of the case, but she consented to live with one Rabial Hoque.

6. In her statement recorded under Section 164 CrPC, the petitioner/victim alleged that the petitioner asked for certain amount of money for business purpose of his nephew, i.e., Rabial Hoque with whom she had the affinity. Accordingly, the informant alleged that she paid certain amount of money to Rabial Hoque and his uncle i.e., the present petitioner and also the mother of the said accused Rabial Hoque.

7. The victim in her statement under Section 164 CrPC stated that since the parents and family members of the accused refused to give marriage of said Rabial Hoque with her, she lodged the said FIR.

8. It is also seen from the Case Diary that the informant/victim refused for her medical examination.

9. Considering the above, on perusal of the Case Diary and the FIR of the case, the Court is of the view that custodial detention of the petitioner, named above, is not warranted for investigation of said Bilasipara P.S. Case No. 239/2022 corresponding to G.R. Case No. 445/2022. Accordingly, this pre arrest bail application of the petitioner is accepted.

10. The petitioner namely, **Monirul Hoque**, is already on interim bail in said Bilasipara P.S. Case No. 239/2022 granted to him earlier on 18.05.2023 and the same is hereby made absolute on the terms and conditions that the petitioner shall - (i) appear before the Investigating Officer of Bilasipara P.S. Case No. 239/2022, as and when he is required for necessary investigation of said Bilasipara P.S. Case; (ii) not leave the territorial jurisdiction of the Bilasipara Police Station, without obtaining prior written permission from the concerned Investigating Officer 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 them from disclosing such facts to the Court or to any police officer.

11. However, it is made clear that if after completion of investigation of the case, charge-sheet is filed in said Bilasipara P.S. Case No. 239/2022, wherein he is made an accused and if any, cognizance of offence is taken against him in said Bilasipara P.S. Case No. 239/2022 corresponding to G.R. Case No. 445/2022, the petitioner shall appear before the appropriate Trial Court.

12. With the above observation and directions, this pre arrest bail application accordingly stands allowed to the extent above.

13. Return the case diary.

JUDGE

Comparing Assistant