

GAHC010109532023



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

Case No. : AB/1812/2023

MD. MONTU HUSSAIN @ MONTU SHEIKH
S/O TAIBULLAH ALI, R/O BAGHORGAN, P.S.-BOKO, DIST-KAMRUP,
ASSAM, PIN-781123

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR A K AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

12-06-2023

Heard Mr. A. K. Azad, learned counsel for the petitioner and Mr. M. P. Goswami, learned Additional Public Prosecutor, Assam for the State.

By this application under Section 438 CrPC the petitioner, namely, **Md. Montu Hussain @ Montu Sheikh**, apprehending his arrest is seeking pre-arrest bail in Boko P.S. Case No.22/2023 registered under Sections 498(A)/376/325/34 IPC.

As per the FIR of the case lodged by the wife of the petitioner as complainant on

15.01.2023 before the Officer-in-charge of Boko Police Station stating that the present petitioner is her husband, their marriage was solemnized 10 years back and they have 2 children. But the petitioner even after 10 years of marriage and having children, tortured her physically and mentally, brutally assaulted on various parts of her body including her private parts.

Though she hoped that her husband will reform, but he continued to torture her regularly.

It is also alleged by the informant in the FIR that the petitioner did not provide any maintenance to her. As she sustained severe injuries on her body due to the assaulted meted out to her by her husband, the present petitioner, in a compelling situation, she had to lodge the said FIR, which was accordingly, registered as Boko P.S. Case No.22/2023.

Mr. Goswami, learned Additional Public Prosecutor, Assam from the case diary submitted that the neighbouring witnesses stated that the petitioner used to quarrel with his wife, i.e., the informant of the case and the he used to beat his wife.

Mr. Goswami, further submitted that the medical report of the victim/informant discloses that the external injuries sustained by her are not grievous and appears to be simple in nature. However, Mr. Goswami submitted that the detailed medical report of the victim/informant is yet to be received.

Considering the materials in the case diary, the Court is of the view that custodial interrogation of the petitioner is not warranted to investigate said Boko P.S. Case No.22/2023. As such, this pre-arrest bail application of the petitioner in said Boko P.S. Case is accepted.

Accordingly, it is provided that in the event of arrest of the petitioner namely, **Md. Montu Hussain @ Montu Sheikh**, he shall be released on bail in said Boko P.S. Case No.22/2023, on furnishing a bail bond of Rs.50,000/-, with 2 (two) local sureties of the like amount, to the satisfaction of the arresting authority on conditions that the petitioner shall – **(i)** appear before the Investigating Officer of said Boko P.S. Case No.22/2023 on or before **16.06.2023** and thereafter, as and when he is required for necessary investigation of the case; **(ii)** not leave the territorial jurisdiction of the Boko 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)** he 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 them from disclosing such facts to the Court or to any police officer, failing which, the bail granted to

him in the aforesaid Boko P.S. Case No.22/2023 shall stand automatically vacated.

Further, the petitioner shall not torture the informant/victim physically or mentally.

Any violation of the aforesaid terms and conditions by the petitioner, named above, the pre arrest bail granted to him in the aforementioned Boko P.S. Case No.22/2023 shall stand automatically vacated.

Return the case diary.

This pre-arrest bail application stands disposed of to the extent above.

JUDGE

Comparing Assistant