

GAHC010110862023



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

Case No. : AB/1836/2023

MIZANUR RAHMAN
S/O- SAIDUR RAHMAN, R/O- VILL- LAKHIGANJ (NOYAPARA), P.S.
BILASIPARA, DIST.- DHUBRI, ASSAM, PIN- 783345

VERSUS

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

Advocate for the Petitioner : MR. M U MONDAL

Advocate for the Respondent : PP, ASSAM

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

23-06-2023

Heard Mr. M. U. Mondal, 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, **Mizanur Rahman**, apprehending his arrest is seeking pre arrest bail in Bilasipara P.S. Case No.153/2023 registered under Sections 326/379/34 IPC, corresponding to G.R. No.292/2023.

As per the FIR of the case lodged on 14.04.2023 that the petitioner and other accused persons of the case on the night of 13.04.2023 tied the hands and legs of the informant's son in the house of the petitioner and assaulted him with sharp weapons and that the petitioner took away silver ornaments and mobiles from the son of the informant.

Mr. Goswami, learned Additional Public Prosecutor, Assam submitted that the case diary reveals that on the night of 13.04.2023, the petitioner found son of the complainant along with his sister-in-law having physical relation at night in absence of his brother and as he informed other villagers and they came and they took out both the sister-in-law of the petitioner and the son of the complainant from the house of his brother, tied them and the people gathered therein being annoyed with the act, assaulted the son of the complainant.

After obtaining interim pre-arrest bail on 25.05.2023, the petitioner appeared before the concerned Investigation Officer of said Bilasipara P.S. Case No.153/2023 on 27.05.2023 and admitted the fact that he had bitten the cheek of the son of the informant and snatched away his mobile.

Mr. Goswami, learned Additional Public Prosecutor submitted that the medical report of the victim reveals that he sustained grievous injuries, but there is nothing regarding such biting by the petitioner to the son of the complainant in the medical report.

Considering the above and the materials in the case diary, the Court is of the view that custodial interrogation of the petitioner is not warranted to investigate said Bilasipara P.S. Case No.153/2023. As such, this pre arrest bail application of the petitioner is accepted.

The petitioner, namely, **Mizanur Rahman** is already on interim bail granted to him earlier on 25.05.2023 in said Bilasipara P.S. Case No.153/2023 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.153/2023, 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, failing which the bail granted to him in said Bilasipara P.S. Case No.153/2023 shall stand automatically vacated.

Further, the petitioner shall not indulge in similar offence or any criminal offences in future, failing which, the bail granted to him in said Bilasipara P.S. Case No.153/2023 shall stand automatically vacated.

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

Return the case diary.

JUDGE

Comparing Assistant