

GAHC010116062023



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

Case No. : AB/1898/2023

ABDUL MOTIN @ABDUL MATIN
S/O- ABDUS SATTAR, R/O- VILL- GARUCHATKA ULUBARI, P.O. TIPLAI, P.S.
DHUPDHARA, DIST.- GOALPARA, ASSAM, PIN- 783130

VERSUS

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

Advocate for the Petitioner : MR. M H TALUKDAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 21-06-2023

Heard Mr. M.H.Taludkar, learned counsel for the petitioner namely Abdul Motin @ Abdul Matin.

By this application under Section 438 of Cr.P.C. the petitioner namely Abdul Motin @ Abdul Matin has approached this Court seeking the benefit of

pre-arrest bail, apprehending his arrest in connection with PRC Case No. 1576/2022 arising out of Dhupdhara P.S Case No. 47/2022 u/s 376/511/354 IPC

Heard Ms. S. H. Bora, learned Addl. P.P., Assam.

It is submitted on behalf of the petitioner that final report was earlier submitted as no case was made out against the petitioner, vide final report No. 17/2022 dated 30.6.2022 in connection with Dhupdhara P.S.Case No. 47/2022. However, the informant filed a Narazi petition and finally summons was issued against the petitioner and vide order dated 11.4.2023, NBWA was issued against the petitioner, as the petitioner has not appeared before the Addl. C.J.M, Goalpara.

It is also submitted on behalf of the petitioner that the informant's husband had killed the petitioner's brother and charge sheet has been laid against the informant's husband being C.S. No 9/22 dated 22.2.2022, annexed as Annexure -2.

The petitioner is a witness in the case against which the informant's husband has been accused of killing the petitioner's brother and in the witness column of the charge sheet the name of the petitioner Abdul Motin appears at Serial No. 2.

The allegation against the petitioner is that when the victim went out of her house at 12:30 AM midnight to attend nature's call, the petitioner attempted to commit rape on the victim and to outrage her modesty and when the victim raised alarm, the victim's brother-in-law's wife came out of the house and witnessed the incident and she raised alarm. It is submitted that due to bad blood between both the parties, a cross case has been instituted against the

petitioner and when no evidence was found against the petitioner, final report was submitted, but the victim i.e. the informant kept pursuing the matter and she filed a Narazi petition. The petitioner has pledged to cooperate with the remaining part of the investigation.

The learned Addl. P.P. has raised objection stating that the conduct of the petitioner reveals that he has been evading arrest and he may not cooperate with the investigation as well as the trial.

I have considered the submission at the Bar with circumspection. In view of my foregoing discussions and considering all aspects, I deem it proper to allow the petition u/s 438 Cr.P.C .

In the event of his arrest, the petitioner Abdul Motin @ Abdul Matin, shall be enlarged on bail of Rs. 50,000/- with suitable surety of like amount to the satisfaction of the Addl. C.J.M, Goalpara under the conditions that:

1. the petitioner will appear before the Jurisdictional Court on or before the next date fixed and the petitioner will not evade appearance till completion of the trial.

JUDGE

Comparing Assistant