

GAHC010116452023



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

Case No. : AB/1936/2023

ABDUL SUKUR
S/O LATE FAIZUL HAQUE
R/O VILL- OKSEK GAON
P.O. BARBALI, P.S. MURAJHAR
DIST. HOJAI, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : F K R AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

02-06-2023

Heard Mr. F.K.R. Ahmed, learned counsel for the petitioner. Also heard Ms. S.H. Borah, learned Additional Public Prosecutor, Assam.

This Anticipatory Bail petition has been filed by the petitioner, namely, Abdul Sukur, who is apprehending his arrest in connection with Murajhar Police

Station Case No.223/2021 registered under Sections 147/ 302/ 325 of the IPC.

Learned counsel for the petitioner submits that in this case charge-sheet being C.S. No.238/2021 has been filed on 31.07.2021 on completion of the investigation and presently the matter being numbered as Session Case No.21(H)/2021 is pending trial before the Court of Sessions Judge, Hojai.

Learned counsel for the petitioner submits that initially when the charge-sheet was filed on 31.07.2021, he was shown in the charge sheet as a person who was not put up for trial. Subsequently, pursuant to an application for further investigation of the case was filed by the informant, the Investigating Officer filed a supplementary charge-sheet being C.S. No.238(A)/2021 on 18.08.2021 wherein the petitioner along with 3 (three) others were shown as accused persons. The petitioner was shown as an absconder in the supplementary charge-sheet filed. Learned counsel for the petitioner has referred to the order of this Court dated 09.05.2022 passed in AB No. 1198/2022 to submit that the two other persons who were not put up for trial in the subsequent charge-sheet had approached this Court and this Court had passed the order on 09.05.2022 directing the competent Court to consider the prayer for bail of the petitioners in terms of the judgment rendered by the Apex Court in ***Aman Preet Singh vs. CBI Through Director***, reported in ***(2021) SCC Online SC 941 in Criminal Appeal No.929/2021 {arising out of SLP(Crl.) No.5234/2021}***. Learned counsel for the petitioner has prayed for similar orders from this Court

Ms. S.H. Borah, learned Additional Public Prosecutor, does not oppose to the said submission made by the learned counsel for the petitioner.

Learned counsels for the parties have been heard and pleadings before

this Court have also been perused. From the copies of the charge-sheets enclosed in this petition, it is seen that the petitioner was shown as a person not put up for trial in the charge-sheet filed earlier. The subsequent supplementary charge-sheet filed shows the petitioner is also put up for trial by showing him as an absconder. If that be so, this AB petition can be disposed of by directing the petitioner to appear before the competent Court, namely, the Sessions Judge, Hojai, in connection with Session Case No.21(H)/2021 arising out of Murajhar Police Station Case No.223/2021 registered under Sections 147/ 302/ 325 of the IPC and upon his appearance, the concerned Court will consider his prayer for bail by taking into consideration the law laid down by Apex Court in ***Aman Preet Singh*** (supra), ***Siddharth vs. State of Uttar Pradesh & Anr.*** reported in (2021) 1 SCC 676 in Criminal Appeal No.838/2021 and judgment dated 20.03.2023 rendered in ***Madhoom Bava vs. Central Bureau of Investigation*** in Criminal Appeal No... of 2023 (arising out of SLP(Crl.) No.376/2023).

NBWA issued on 18.08.2021 & 19.08.2021 by the Court of Chief Judicial Magistrate, Hojai shall be kept in abeyance if the petitioner appears before the Sessions Court, Hojai within 10 (ten) days from today. Upon his appearance, the petitioner is at liberty to make necessary prayers before the competent Court and the Competent Court upon consideration of the matter on its merits and taking into consideration the law laid down by the Apex Court will pass appropriate order.

In terms of the above, the Anticipatory Bail Application stands disposed of.

JUDGE

Comparing Assistant