

GAHC010119232023



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

Case No. : AB/1960/2023

AYNUL HAQUE AND ANR
S/O- LATE IMAN ALI, R/O- BHAGADUTTAPUR, KAHILIPARA, GUWAHATI-
19, P.S. DISPUR, DIST.- KAMRUP (M), ASSAM

2: BIJULI BARMAN
W/O- TAPAN DEKA
R/O- BHAGADUTTAPUR
KAHILIPARA
GUWAHATI-19
P.S. DISPUR
DIST.- KAMRUP (M)
ASSA

VERSUS

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

Advocate for the Petitioner : MR. N J DUTTA

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

14/06/2023

Heard Mr. N J Dutta, learned counsel for the petitioners and Mr. M P Goswami, learned Additional Public Prosecutor, Assam for the State.

The petitioners, namely, **(1) Aynul Haque** and **(2) Bijuli Barman**, have filed this application under Section 438 Cr.P.C. seeking pre-arrest bail apprehending their arrest in **Dispur P.S. Case No. 832/2023** registered under Section 498A IPC corresponding to G.R. No. 3384/2023.

Perused the case diary placed before the Court today by Mr. M P Goswami, learned Additional Public Prosecutor, Assam.

As per the FIR of the case lodged by the wife of the petitioner No. 1 on 13.05.2023 alleging that she got married with the petitioner No. 1 on 08.07.2020 and thereafter, they live together as husband and wife and out of their marriage, a male child was born to them on 21.11.2021. But after 3 months of their marriage, the petitioner No. 1 demanded Rs.3,00,000/- from her father and since she could not fulfill the said demand of the petitioner No. 1, he used to physically and mentally torture her. The informant of the case, i.e., wife of the petitioner No. 1 in the said FIR also alleged that her husband had an illicit relation with the petitioner No. 2 and even the petitioner No. 2 also used to threaten her and both the petitioners used to torture her. Under such compelling situations, when she objected against the conduct of both the petitioners, they physically tortured her and on 24.02.2023, she was thrown out of her matrimonial home. As such, she lodged the FIR on 13.05.2023 before Dispur Police Station which was accordingly registered as Dispur P.S. Case No. 832/2023 under Section 498A IPC.

Mr. Goswami, learned Additional Public Prosecutor, Assam from the case diary also submitted that there are indications that petitioner No. 1 has illicit relation with the petitioner No. 2, but the case diary does not indicate regarding any such demand of dowry by the petitioner No. 1 from his wife, i.e., the informant.

By order dated 05.06.2023, the petitioner No. 2, Bijuli Barman was granted interim bail in said Dispur P.S. Case No. 832/2023.

Mr. Goswami, learned Additional Public Prosecutor, Assam from the case diary submitted that after obtaining interim pre-arrest bail in said Dispur P.S. Case No. 832/2023 on 05.06.2023, the petitioner No. 2, Bijuli Barman appeared before the concerned Investigating Officer of the case and her statement was also recorded.

Considering the materials available in the case diary, the Court is of the view that custodial interrogation of the petitioners, namely, (1) Aynul Haque and (2) Bijuli Barman, are not warranted to investigate the said Dispur P.S. Case No. 832/2023. As such, this pre-arrest bail application of the

petitioners, named above, in said Dispur P.S. Case is accepted.

As noted above, the petitioner No. 2, namely, Bijuli Barman is already on interim bail in said Dispur P.S. Case No. 832/2023 granted to her earlier by this Court on 05.06.2023 and the same is hereby made absolute in same terms and conditions specified in the order dated 05.06.2023.

Further, it is provided that in the event of arrest of the petitioner No. 1, namely, **Aynul Haque**, in said **Dispur P.S. Case No. 832/2023** registered under Section 498A IPC, he shall be released on bail on furnishing a bail bond of Rs.35,000/- with 2 (two) local sureties of the like amount to the satisfaction of the arresting authority, subject to the conditions that the petitioner No. 1 shall - **(i)** appear before the concerned Investigating Officer of said Dispur P.S. Case No. 832/2023 **on or before 19.06.2023** and thereafter, as and when he is required for necessary investigation of the case; **(ii)** not leave the territorial jurisdiction of said Dispur Police Station, without obtaining prior written permission from the concerned I/O 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 any family members of the victim or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer.

Any violation of any of the aforesaid terms and conditions by the petitioners, named above, pre-arrest bail granted to them in said Dispur P.S. Case No. 832/2023 shall stand automatically vacated.

Accordingly, this pre-arrest bail application stands allowed to the extent above.

Return the case diary.

JUDGE

Comparing Assistant