

GAHC010123032023



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

Case No. : AB/2016/2023

MD. BALLA ALI @ RUPFUL ALI
S/O MD. HAMID ALI, R/O VILL- NEW SARABARI, KOWARPUR, P.S.-HAJO,
DIST- KAMRUP, ASSAM, PIN-781102

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. N AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

25.08.2023

Heard Mr. N. Ahmed, learned counsel for the applicant and also heard Ms. A. Begum, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application, under Section 438 Cr.P.C., is preferred by the applicant, namely, Md. Balla Ali @ Rupful Ali, who has been apprehending arrest in connection with Hajo P.S.

Case No.791/2020, under Sections 120(B)/147/148/341/294/325/307/379 IPC, for grant of pre-arrest bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of one FIR lodged by one Saleha Khatun, Sukur Ali, Riaz Ali, Billal Hussain and Amidul Ali on 10.08.2023, to the effect that on 08.08.2020, while they were returning home from Sarthebari in a car, bearing Registration No.AS-25DC-5607, then one Iyasin Ali, Iyakub Ali, Sanful Ali, Ismail Ali, Laden Ali, Balla Ali and Saifu Ali wrongfully restrained them and assaulted them by means of dao, dagger and lathi and injured them seriously and stolen away a sum of ₹ 20,000/- and 6 nos. of mobile phone from them.

4. Mr. Ahmed, learned counsel for the applicant submits that the occurrence took place in the year 2020, and now the applicant is being searched by police and therefore, he has been approaching this Court by filing this petition. Mr. Ahmed further submits that the applicant is innocent and he is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, Ms. A. Begum, learned Additional Public Prosecutor has produced the case diary before this Court and submits that the materials collected so far in the case diary reveals complicity of the applicant with the offence alleged and therefore, she has opposed the petition.

6. Having heard the submission of learned Advocates of both sides, I have gone through the petition and the documents placed on record and also perused the case diary.

7. It appears that the case was registered on 10.08.2020 and since then the I.O. got sufficient time for investigation. In view of the progress of investigation and the materials collected so far in the case diary, custodial interrogation of the applicant seems to be not warranted here in this case and accordingly, this Court is inclined to allow this petition. It is provided that in the event of arrest of the applicant, namely, Md. Balla Ali @ Rupful Ali, in connection with Hajo P.S. Case No.791/2020, under Sections 120(B)/147/148/341/294/325/307/379 IPC, he shall be enlarged on pre-arrest bail on furnishing a bail bond of ₹ 50,000/- with one surety of the like amount to the satisfaction of the arresting authority. The above privilege is, however, subject to the following

conditions:-

- (i) The applicant shall make himself available for interrogation by the Investigating Officer as and when required;
 - (ii) The applicant 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 him from disclosing such facts to the Court or to any police officer; and
 - (iii) The applicant shall not leave the jurisdiction of the learned Judicial Magistrate First Class, Hajo, without prior permission.
8. In terms of above, this anticipatory bail application stands disposed of.
9. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant