

GAHC010138872023



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

Case No. : AB/2252/2023

MD. ASLAM RAHMAN
S/O LATE LIAKAT RAHMAN
R/O VILL- BOKEL TINIALI
P.O., P.S. LAHOWAL AND DIST. DIBRUGARH, ASSAM
PIN NO. 786010

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR S SARMA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

01.08.2023

1. Heard the learned counsel for both the sides.
2. This is an application under Section 438 of the Code of Criminal Procedure, preferred by one, Md. Aslam Rahman in connection with Lahowal P.S. Case No.

67/2023 under section 498-A/326/307 of the Indian Penal Code (corresponding G.R. Case No. 734/23).

3. It is submitted by the learned counsel for the petitioner that there is no allegation in the FIR against the petitioner that the petitioner has demanded any dowry article from his wife as such section 498-A is not attracted herein this case.

4. It is also submitted that the allegation made in the FIR as well as the statement of the victim recorded under section 161 Cr.P.C. is false. The petitioner and the victim are husband and wife and the physical assault towards the victim may be possible but which cannot be stated to be so grievous which falls under section 307 IPC. So, the benefit of pre-arrest bail be extended to the petitioner.

5. On the other hand, learned Additional Public Prosecutor has submitted that the injury report of the victim reveals that she sustained four numbers of injuries and section 307 IPC be attracted herein this case and he strongly opposed in granting bail to the petitioner.

6. I have considered the submissions of learned counsel for both the parties. There is no allegation in the FIR regarding demand of any articles by the petitioner from the victim. The injury report of the victim is available in the case diary, which reveals that she sustained lacerations, on her neck, below her lips, right side of the abdomen and contusion on her right hand. The doctor opined that the injuries sustained by the victim were simple in nature.

7. Considering the materials available in the case diary as well as considering the submissions of learned counsel, the pre-arrest bail of the petitioner is allowed.

8. Accordingly, it is provided that in the event of arrest of the petitioner

above named, in connection with Lahowal **Police Station Case No. 67/2023** under section 498-A/326/307 of the Indian Penal Code (corresponding G.R. Case No. 734/23), he shall be released on furnishing bail bond of **Rs.10,000/-**, with **a suitable surety** of the like amount, to the satisfaction of the arresting authority.

9. The direction for pre-arrest bail is subject to the conditions that the petitioner:

(a) shall appear before the Investigating Police Officer of concerned Police Station, within ten days from today and shall co-operate with the investigation;

(b) shall not hamper with the investigation, or tamper with the evidence of the case;

(c) 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.

10. In terms of the above, this bail application stands disposed of.

JUDGE

Comparing Assistant