

GAHC010146872023



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

Case No. : AB/2352/2023

KANGKAN JYOTI BHARALI @ KANGKAN BHARALI
S/O- DHAJEN BHARALI, VILL. AND P.S. NAGARBERA, DIST. KAMRUP,
ASSAM

VERSUS

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

Advocate for the Petitioner : MR. S RANA

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

06.12.2023

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

2. Apprehending arrest in connection with Nagarbera P.S. Case No.52/2023, under Section 341/325/384/34 IPC, this application under Section 438 Cr.P.C. is preferred by

applicant, namely, Kangkan Jyoti Bharali, for grant of pre-arrest bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by one Rofikul Islam on 24.04.2023. The essence of allegation made in the aforesaid FIR is that on 15.04.2023 while he was returning home from the market, then at about 9:30 p.m. in front of Nagarbera Pathalipara Namghar one Kangkan Bharali and Tulu Kalita stopped his vehicle and assaulted him and also looted a sum of ₹ 1,25,000/- from him.

4. Mr. Rana, learned counsel for the applicant submits that this Court was pleased to extend interim protection to the applicant vide order dated 04.07.2023 and pursuant to the said order, the applicant had appeared before the I.O. and his statement was recorded and he has been cooperating with the investigating agency and therefore, a contention is being made to make the interim order dated 04.07.2023 absolute, in the same terms and conditions.

5. On the other hand, Ms. A. Begum, learned Additional Public Prosecutor has produced the case diary before this Court and submits that the investigation is still going on and the I.O. has collected injury report of the victim which reveals that the nature injury is simple in nature caused by blunt weapon and also none of the witnesses examined by the I.O. till date has seen the accused person taking away the money from the possession of the informant.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of Ms. Begum, learned Additional P.P.

7. It appears from the case diary that the applicant had appeared before the I.O. and he has been cooperating with the investigating agency. Further, it appears that the injuries sustained by the victim is simple in nature caused by a blunt object and also it appears from the case diary that none of the prosecution witnesses, examined till date, have seen the accused persons looting a sum of ₹ 1,25,000/- from the applicant.

8. Under the aforementioned facts and circumstances, this Court is of the considered opinion that custodial interrogation of the applicant is not required in the interest of

investigation and therefore, this Court is inclined to make the interim order dated 04.07.2023 absolute, in the same terms and conditions.

9. In terms of above, this anticipatory bail application stands disposed of.
10. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant