

GAHC010152132023



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

Case No. : AB/2441/2023

TAZUL ISLAM @ TAZ UDDIN
S/O ABDUR RAOUF
R/O VILL- BOROSABARI, P.O. ISABEEL
DIST. KARIMGANJ, ASSAM
PIN-788728

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE PP, ASSAM

Advocate for the Petitioner : DR. B AHMED
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 21-08-2023

Heard Mr. P.K.Roychoudhury, learned counsel for the applicant and also heard Mr. R. R. Kaushik, learned Addl. P.P. for the State respondent. Apprehending arrest in connection with Bazaricherra P.S. Case No. 129/2023 (G. R. Case No.1341/2023) under Sections 302/34 IPC this application under Section 438 Cr.P.C. is preferred by the applicant, namely, Sri Tazul Islam @ Taz

Uddin for grant of pre-arrest bail.

The essence of allegation made in the FIR dated 21.6.2023 lodged by one Jumila Begum, is that on 28.6.2023 at about 7 PM at night while her husband was returning home by calling over telephone and then hearing a sound she rushed to her husband and found her husband falling down on the ground sustaining injuries over his head and then her husband told her that Taj Uddin, alongwith two others caused hurt to him and thereafter fled away in the darkness. Thereafter her husband was taken to Silchar Medical College Hospital and at about 8-15 AM on 21.6.2023 her husband succumbed to the injuries.

Mr. P. K. Roychoudhury, learned counsel for the applicant submits that the applicant was not present in the place of occurrence at the relevant point of time and he is innocent and no way involved with the offence alleging in the FIR and also he is ready to cooperate with the investigating agency and therefore it is contented to allow the bail petition.

On the other hand, Mr.Kaushik, learned Addl. P.P.has produced the case diary before this Court and submits that the wife of the deceased, who is the informant of this case, has implicated the applicant with the offence alleged in the FIR. However, referring to a note of the I.O in the case diary, Mr. Ksushik, learned Addl. P.P submits that as per the said note the applicant was not present at the place of occurrence at the relevant point of time and some other persons were involved with the offence.

Having heard the submission of learned Advocates of both sides, I have perused the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Kaushik, learned Addl. P.P.

In view of the materials collected so far in the case diary, specially the note of the I.O. and the statement of some of the witnesses, this Court is of the view

that custodial interrogation of the applicant is not warranted 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, in connection with Bazaricherra P.S. Case No. 129/2023 (G. R. Case No.1341/2023) under Sections 302/34 IPC, he shall be released on pre-arrest bail on his executing a bond of Rs.50,000/ with one surety of like amount to the satisfaction of the arresting authority.

The above privilege is, however, subject to the following conditions:

1. That the applicants shall make himself available for interrogation by the Investigating Officer as and when required;
2. That 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
3. That the applicants shall not leave the jurisdiction of the learned CJM, Karimganj.

In terms of the above this A.B stands disposed of .

Case diary be returned.

JUDGE

Comparing Assistant