

GAHC010152322022



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

Case No. : AB/2175/2022

FAKARUDDIN AHMED @ TUTU
SON OF LT. MUSLIM UDDIN
AHMED,
R/O PURANBASTI, F.A. AHMED ROAD, SIX MILE, P.O. AND P.S. DISPUR,
DIST. KAMRUP (M), ASSAM, PIN-781006

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A Y CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

16.03.2023

Heard Mr. A.Y Choudhry, learned counsel for the petitioner and Mr. B.B. Gogoi, learned Addl. Public Prosecutor, Assam for the State.

2. This anticipatory bail application has been filed by the petitioner namely **Fakaruddin Ahmed @ Tutu**, apprehending arrest in connection with **Dispur P.S. Case No. 1957/2019** under Sections 448/506/376/354(C)/385 of the IPC read with Section 67 of the IT Act.

3. The petitioner claims to be a Government Servant and is presently employed as a V.F.A. under the Animal Husbandry & Veterinary Department. An FIR dated 03.07.2019 was lodged by one Mamoni Begum before the Dispur Police Station alleging threats and dire consequences stated to have been issued by the petitioner to the informant and the family in the event the informant does not accede to the demands of the petitioner and in that event, the husband of the informant will be killed. The petitioner forcefully compelled the informant to enter into the physical relationship and unauthorizely took photographs. Such illegal acts were repeatedly committed by the petitioner under the threat of causing harm to the husband of the informant. Further, a demand of Rs. 2,00,000/- was made by the petitioner, demanding the same by telephone call on 23.06.2019. The informant was threatened that in the event the amount was not paid to the petitioner as demanded, the unauthorised photographs of the informant would be shared and uploaded in the social media. Allegations were also made against the wife of the petitioner about

harassment to the informant and threats issued for making the photographs viral in the social media. It is further alleged that the petitioner and his wife one Jahanara Khatun are now repeatedly trying to blackmail the informant by threatening to circulate the obscene photographs and to cause physical harm to the informant and her children. The said FIR was registered as Dispur P.S. Case No. 1957/2019 dated 03.07.2019 under Sections 448/506/376/354(C)/385 of the IPC read with Section 67 of the IT Act.

4. This Court vide order dated 05.08.2022 called for the case diary. The matter has been listed on several dates thereafter for the case diary but the same was not available before the Court.

5. Today when the matter is called up, the case diary is produced by the learned Addl. Public Prosecutor, Assam.

6. The case diary produced has been carefully perused.

7. From the case diary, it is seen that no statement under Section 164 Cr.P.C of the informant is found. There is also no medical report available in the case diary. The statements of other witnesses revealed longstanding affair or relationship between the informant and the petitioner. The last entry in the case

diary was as far back as 18.11.2021. No other materials have been noticed from the case diary. No charge-sheet has been filed as on date.

8. From perusal of the case diary, this Court is of the view that grant of anticipatory bail, as prayed for, by the petitioner will not cause any impediment in the investigation which has progressed. No materials are available from the case diary to suggest that any threat or coercion has been received by the informant during the course of investigation. The FIR was lodged on 03.07.2019 and as such custodial interrogations of the petitioner is not seen necessary at this stage in the absence of any such materials to that effect.

9. Accordingly, this Court is of the view that the anticipatory bail, as prayed for, can be granted to the petitioner. The petitioner, named above, if arrested in connecting with the above noted case shall be released on pre-arrest bail upon furnishing a bail bond of **Rs.25,000/- (Rupees Twenty Five Thousand)** only with two local sureties of like amount to the satisfaction of the arresting authority, subject, of course, to the following conditions:

(i) That the petitioner shall appear before the Investigating Officer as and when required;

(ii) That the petitioner will not maintain any relationship physical or otherwise with the informant or any members of the family during the course of

the investigation.

(ii) That the petitioner shall not hamper or tamper with the investigation in any manner;

(iii) That the petitioner 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

(iv) That the petitioner shall not move out the jurisdiction of the Dispur Police Station without permission from the concerned Investigating Officer of the case.

10. If any of the conditions are found to be violated then the Investigating Officer shall be at liberty to seek recall/cancellation of the anticipatory bail granted to the petitioner.

11. The anticipatory bail application is allowed and disposed of.

12. Return the case diary.

JUDGE

Comparing Assistant