GAHC010153862023

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

Case No. : AB/2487/2023

TAHIR KHAN
S/O FIROZ KHAN
R/O TIPONG LALPAHAR
NEAR L.P. SCHOOL, P.O. TIPONG, P.S.LEKHAPANI, MARGHERITA
TINSUKIA, ASSAM
PIN-786179

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. S CHETIA

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

25.08.2023

Heard Ms. P.R. Mahanta, learned counsel for the applicant and also heard Mr. M.P. Goswami, learned Additional Public Prosecutor, Assam, appearing for the State

respondent.

2. Apprehending arrest in connection with Margherita P.S. Case No.154/2023, under Sections 120B/307/342/364/394/506 IPC, this application under Section 438 Cr.P.C. is preferred by the applicant, namely, Tahir Khan 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 Md. Azizul Rahman on 27.06.2023. The essence of allegation made in the FIR is that on 27.06.2023, at about 10:10 p.m., one Susenfa Buragohain, Raj Dutta, Shivam Deka, Phukan Roy and Abhijit Lahon, all the brothers of the informant Md. Azizul Rahman went to the Margherita Railway Station and while his brother reached the Margherita Railway Station, then the aforesaid persons being armed with Machette, Gun, etc. and pointed iron rod and fighter rings assaulted his brother and injured him seriously.

4. Ms. Mahanta, learned counsel for the applicant submits that the applicant, pursuant to the order of this Court dated 21.07.2023, had appeared before the I.O. and his statement is recorded and he has been cooperating with the investigating agency. Further, Ms. Mahanta submits that the name of the applicant find no mention in the FIR and he is no way involved with the offence alleged in the FIR and therefore, Ms. Mahanta contended to make this interim order dated 21.07.2023, absolute, in the same terms and conditions.

5. Whereas Mr. M.P. Goswami, learned Additional Public Prosecutor has produced the case diary before this Court and submits that the witnesses examined so far have implicated the applicant with the offence alleged and it cannot be said that his custodial interrogation is not warranted in the interest of investigation. Therefore, Mr. Goswami contended to dismiss this petition.

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 Mr. Goswami, learned Additional P.P. for the State respondent.

7. It appears that vide order dated 21.07.2023, the applicant was granted interim pre-arrest bail and pursuant to the said order, he had appeared before the I.O. and extending

cooperation with him. Further, it appears from the materials collected so far in the case diary as well as the progress of investigation, custodial interrogation of the applicant seems to be not warranted here in this case and accordingly, this Court is inclined to make the interim order dated 21.07.2023 absolute, in the same terms and conditions.

8. In terms of above, this anticipatory bail application stands disposed of.

9. Case diary be returned.

Sd/- *Robin Phukan*
JUDGE

Comparing Assistant