

GAHC010154592022



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

Case No. : AB/2199/2022

PAPARI GOGOI
D/O SRI NIPEN GOGOI
R/O CHARINGIA GAON
P.O. KHANAMUKH
DIST. JORHAT, ASSAM
PIN-785682

VERSUS

THE STATE OF ASSAM
REP. BY THE LEARNED PP, ASSAM

Advocate for the Petitioner : MR. M DUTTA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 17.03.2023

Heard M. Dutta, learned Counsel, who appears for the petitioner. Also heard Mr. B. B. Gogoi, learned Additional Public Prosecutor appearing for the State of Assam.

2. This Anticipatory Bail petition is filed by the petitioner,

namely, Papari Gogoi in connection with Dispur Police Station Case No. 1778/2022 under Section 120(B)/153A/294(a)/500/506 of the IPC, read with Section 67 of the Information Technology Act, 2000.

3. The petitioner is a resident of Charingia Gaon, P.O-Khanamukh, District-Jorhat, Assam and it is stated that she has completed her education with a Master Degree in History from Gauhati University with a first class and she has actively participating in various cultural activities.

4. An FIR dated 30th July, 2022 lodged by the informant, one, Pulak Gohain, who is the State General Secretary, Bharatiya Janata Party, Assam Pradesh. It is alleged in the FIR that on 29th July, 2022 State Scheduled Caste Morcha, State Mohila Morcha and Tea Tribe Morcha of Bharatiya Janata Party, Assam Pradesh took a protest rally for making certain obscene remarks against the Hon'ble President of India by the Leader of the opposition, Adhir Ranjan Choudhury of the Congress party. The said protest was telecasted by Media through various video and audio means. It was alleged in the FIR that one such type of video which was downloaded from the media, was shared/circulated in the social media by some unknown culprits by tampering with the audio. In the said audio an attempt has been made for promoting enmity of a particular community of Assam and thereby create social disturbances and also tried to lower the ideology of Bharatiya Janata Party before the public. By the aforesaid acts the

unknown culprits violated the provisions of Information Technology Act. The informant by the said FIR requested for initiating and taking action against the culprits.

5. The said case was received and registered as Dispur Police Station Case No. 1778/2022 under Section 120(B)/153A/294(a)/500/506 of the IPC, read with Section 67 of the Information Technology Act, 2000.

6. It is submitted by the learned counsel for the petitioner that the petitioner is not responsible for circulating the said social media post. However, she had responded by posting a reply to one such post she had received in her social media. As such, she is not responsible for promoting any ill-feeling and hatred in the society and there was no malicious intention to promote any hatred etc.

7. It is further submitted that there is no ingredients of any of the Sections under which the FIR is lodged. As such, the petitioner have approached this Court by filing the pre-arrest bail petition.

8. It is submitted that this Court vide order dated 10.08.2022 had been pleased to grant interim bail to the petitioner on the conditions mentioned therein.

9. Pursuant to the interim order passed by this Court, the petitioner also appeared before the Police and her statements were recorded.

10. This Court while granting interim bail had directed the Case Diary to be produced before this Court. The Case Diary

directed to be produced has been produced today by the learned Additional Public Prosecutor.

11. Learned Additional Public Prosecutor submits that the petitioner is on interim bail and her statements have been recorded but the matter is still under investigation.

12. Learned counsels for the parties have been heard. Bail petition has also been perused.

13. From the Case Diary, it is seen that the matter is under investigation and the statement of the petitioner has also been recorded. From the Case Diary no materials are seen which suggests that the petitioner had violated any or all of the conditions laid down by this Court vide order dated 10.08.2022 at the time of grant of interim bail. There are also no materials to suggest that the petitioner has refused to co-operate with the investigation carried on by the police so far. Although investigation has been carried on by the Police, the statements of the petitioner and other witnesses are recorded, charge-sheet has yet not been filed as on date. It is also seen that vide order dated 19.01.2023 passed in AB/2292/2022 another accused connected with the same P.S case was also on interim bail and the interim bail was made absolute vide order dated 19.01.2023.

14. From the Case diary no incriminating materials are seen at the stage of investigation to come to any conclusion that continuance of the interim bail granted to the petitioner has caused any impediment to the investigation carried. There are

no materials in the Case Diary to suggest that the petitioner upon being granted interim bail has attempt to coerce or influence any witness or any other persons connected with the case during the course of investigation.

15. Considering the stage of investigation and also considering the offence as alleged, this Court is of the view that custodial interrogation of the petitioner at the stage is not considered necessary.

16. Accordingly, the interim bail granted by this Court vide order dated 10.08.2022 is made absolute on the same terms and conditions.

17. The Anticipatory Bail petition is accordingly allowed and disposed of.

18. Case diary be returned.

JUDGE

Comparing Assistant