

GAHC010161152023



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

Case No. : AB/2577/2023

PUWAL BORKATAKI @ POBAL BARAKATAKI
S/O ABLU BORKATAKI
R/O VILL- KHALIHAMARI
P.S. BIHPURIA
DIST. NORTH LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. P K MUNIR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 28-07-2023

Heard Mr. P.K. Munir, learned counsel for the petitioner. Also heard Mr. K.K. Das, learned Addl. P.P., Assam appearing for the State respondent.

This application under Section 438 of the Code of Criminal Procedure, 1973 has been

filed by the petitioner Sri Puwal Borkataki @ Pobal Barakataki who is apprehending his arrest in G.R. Case No. 1341/2018 corresponding to Bihpuria P.S. case No. 306/2018 under Sections 366A/294/34 of the IPC which is pending before the Court of the learned Judicial Magistrate 1st Class, Lakhimpur, North Lakhimpur.

The case of the present petitioner is that in Bihpuria P.S. Case No. 306/2018 charge-sheet has been laid against the present petitioner showing him as absconder in column No. 2 of the charge-sheet.

The learned counsel for the petitioner submits that though the learned trial Court has issued summons to the present petitioner. However, as he has been shown absconder in the charge-sheet he apprehends that on his appearance before the learned trial Court his bail order may be rejected and he may be apprehended in the case pending against him.

The learned counsel for the petitioner also submits that the present petitioner has been shown as an absconder in the charge-sheet by police and not by Court under the provisions of 82 code of criminal procedure, 1973.

I have also heard learned Addl. P.P. representing the State of Assam who submits that as the Court has issued summons only to the present petitioner there is no apprehension of his arrest in connection with this case. This Court has considered the submissions made by the learned counsel for both the sides and have perused the materials on record. In the present case the petitioner has been shown as absconder in the charge-sheet only by police and not by the Court under Section 82 of the Code of Criminal Procedure, 1973 and the same has been taken cognizance by issuing summons.

As there appears to be no apprehension of the present petitioner being arrested in G.R. Case No. 1341/2018, this anticipatory bail application is disposed of with an observation that the present petitioner may appear before the learned trial Court in pursuance to the summons issued to him and prefer an application for regular bail.

In the event the present petitioner files application for regular bail before the trial Court

the same shall be considered by the learned trial Court as per law ignoring the fact that he has been shown as absconder in column 2 of the charge-sheet.

With the above observation, this bail application stands disposed of.

JUDGE

Comparing Assistant