

GAHC010162682023



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

Case No. : AB/2589/2023

ROKIBUL ISLAM MOLLAH
S/O JORU MOLLAH
R/O VILL- DAKHIN SHATBHENDI (AKIMARI), P.S. LAKHIPUR
DIST. GOALPARA, ASSAM

VERSUS

THE STATE OF ASSAM
THROUGH PP, ASSAM

Advocate for the Petitioner : MR H R A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

25.08.2023

Heard Mr. H.R.A. Choudhury, learned Senior counsel assisted by Mr. M. Hossain, learned counsel for the applicant and also heard Mr. M.P. Goswami, learned Additional Public Prosecutor, Assam, appearing for the State respondent and also heard Mr. B.K. Sen, learned counsel for the informant.

2. Apprehending arrest in connection with Lakhipur P.S. Case No.204/2023, under Sections 493/294/34 IPC, this application under Section 438 Cr.P.C. is preferred by the applicant, namely, Rokibul Islam Mollah 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 informant Smt. X (name withheld) on 03.07.2023. The essence of allegation made in the FIR dated 03.07.2023 is that giving assurance to marry the informant, the applicant Rokibul Islam Mollah has established physical relationship with her and thereafter, he refused to marry her.

4. Mr. H.R.A. Choudhury, learned Senior counsel for the applicant submits that the applicant is on interim pre-arrest bail pursuant to the order dated 28.07.2023, and he appeared before the I.O. and the I.O. has recorded his statement and he has been cooperating with the investigating agency and therefore, Mr. Choudhury, learned Senior counsel contended to make the interim order dated 28.07.2023, absolute, in the same terms and conditions.

5. On the other hand, Mr. M.P. Goswami, learned Additional Public Prosecutor has produced the case diary before this Court and submits that the materials collected so far in the case diary are inadequate to show complicity of the applicant with the offence alleged in the FIR. Mr. Goswami further submits that the case diary indicates that there was love affairs between the applicant and the informant.

6. On the other hand, Mr. B.K. Sen, learned counsel appearing on behalf of the informant has opposed the petition on the ground that this is a case of 376, but the police, being biased, registered the case under Section 493/294/34 IPC and that the applicant has established physical relationship with the informant without her consent.

7. 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.

8. It appears from the case diary that the materials collected so far in the case diary are inadequate to show complicity of the applicant with the offence alleged in the FIR. Further, it appears that the applicant had appeared before the I.O. and his statement is recorded and he has been extending cooperation with the investigating agency.

9. Under the aforesaid facts and circumstances, 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 28.07.2023 absolute, in the same terms and conditions.

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

11. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant