

GAHC010164382023



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

Case No. : I.A.(CrI.)/640/2023

AJAY BASFORE,
S/O CHANDAN BASFORE, R/O STATION ROAD, RAILWAY COLONY, P.S
LATASIL, GUWAHATI 781001, DIST. KAMRUP METRO, ASSAM

VERSUS

THE STATE OF ASSAM,
REPRESENTED BY THE PP, ASSAM

Advocate for the Petitioner : MR. D BORA

Advocate for the Respondent : PP, ASSAM

Linked Case : AB/2073/2023

AJAY BASFORE
S/O CHANDAN BASFORE R/O STATION ROAD RAILWAY COLONY P.S
LATASIL GUWAHATI 781001 DIST. KARUP METRO ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP
ASSAM

Advocate for : MR. D BORA
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

ORDER

Date : 27.07.2023

Heard Mr. B. K. Mahajan, learned counsel for the petitioner. Also heard Mr. D. Das, learned Additional Public Prosecutor for the State.

This Interlocutory Application has been filed in connection with AB No. 2073/2023 which was disposed by order dated 17.07.2023 passed by this Court, wherein it was observed that "*in view of the fact that no material is available on record against the present petitioner and in view of submissions made by learned counsel for the petitioner, the petitioner, namely, Ajay Basfore, is directed to appear before the Investigating Officer of Dispur P.S. Case No. 2284/2022 within a period of 10 (ten) days from the date of this order and cooperate with the Investigating Officer. If, he does so, within the stipulated period, in the event of his arrest in connection with Dispur P.S. Case No. 2284/2022, he shall be allowed to go on bail of Rs.20,000/- (Rupees Twenty Thousand) only with one surety of like amount to the satisfaction of Arresting Authority*".

However, now by present this interlocutory application, learned counsel for the petitioner has submitted that when the present petitioner approached before the Investigating Officer of Dispur P.S. Case No. 2284/2022, it was stated that by the Investigating Officer that he has already forwarded the case to Court

of learned Chief Judicial Magistrate, Kamrup (M), Guwahati. He also refused to accept bail bond which were furnished by the present petitioner in pursuant to the order dated 17.07.2023 passed by this Court in Anticipatory Bail application no. 2073/2023.

It appears from the submissions of learned counsel for the petitioner that though the Investigating Officer had mentioned in the charge-sheet that no materials are available against the present petitioner in the charge-sheet, and had sought leave for further investigation in the charge-sheet, he is not intending to arrest the present petitioner. Hence, the question of granting bail to the present petitioner by the Investigating Office does not arise.

However, in the meanwhile, learned Special Judicial Magistrate, First Class, Kamrup (M), Guwahati has already issued non-bailable warrant of arrest against the present petitioner.

I have also heard the submissions made by learned counsel for both sides and perused the materials of case record.

As apparently, it appears from the record that no materials could be collected against the present petitioner and nothing is there in the charge-sheet against him and only leave for further investigation was sought for by the Investigation Officer and which was allowed by the Court below and as the Court of learned Special Magistrate has already issued non-bailable warrant of arrest, the order issued by this Court in Anticipatory Bail application No. 2073/2023 on 17.07.2023 is hereby modified to the extent that the present petitioner shall now appear before the Court of learned Special Judicial Magistrate, First Class, Kamrup (M), Guwahati within 15 days of the date of this order and in the event he does so, he shall be released on bail by the learned

Special Judicial Magistrate, First Class, Kamrup (M), Guwahati subject to such terms and conditions as may be imposed by the said Court.

With the above observations, this Interlocutory Application is disposed of.

JUDGE

Comparing Assistant