

GAHC010165562023



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

Case No. : AB/2632/2023

DHANMONI BORUAH
S/O LATE LIKHAN CHANDRA BORUAH, R/O DULIAGAON, P.S.-
DHAKUAKHANA, DIST-LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR B BORA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

23.08.2023

Heard Mr. B. Bora, learned counsel for the applicant. Also heard Mr. KK Das, learned Addl. P.P. for the State respondent.

2. Apprehending arrest in connection with Dhakuakhana Police Station Case No. 93/2023, registered under Sections 498(A)/307 of IPC, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by

applicant, namely, Dhanmoni Boruah for grant of pre-arrest bail.

3. It is to be noted herein that the aforementioned case has been registered on the basis of one FIR lodged by the informant, namely, Smti Gitimoni Dutta Boruah on 13.07.2023. The essence of allegation made in the FIR is that the applicant – being her husband subjected her to both physical and mentally cruelty demanding dowry and on the night of 12.07.2023, the applicant had assaulted and injured her seriously and also attempted to kill her by pressing her neck.

4. Mr. Bora, learned counsel for the applicant submits that the applicant and the informant are husband and wife and now they are living together as husband and wife in the same house and the informant has also sworn one affidavit stating that due to misunderstanding she has filed the FIR and that they have settled the dispute among themselves and living a peaceful conjugal life with their minor son and therefore, Mr. Bora contended to make the interim order dated 01.08.2023 absolute in the same terms and conditions.

5. Whereas, Mr. KK Das, learned Addl. PP, producing the case diary before this Court, submits that the I.O. has collected sufficient incriminating materials against the applicant. However, Mr. Das submits that he has no objection if the interim order is made absolute on the basis of the affidavit sworn by the informant, which is submitted by applicant before this Court.

6. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the application and the documents placed on record and also perused the case diary with the assistance of learned Additional Public Prosecutor.

7. It appears that the applicant has appeared before the I.O. and his

statement has been recorded and he has also been cooperating with Investigating Agency. Further, from the affidavit submitted before the Court reveals that the applicant and the informant are living together as husband and wife resolving their disputes.

8. In view of the above, further custodial detention of the applicant seems to be not warranted in this case. Accordingly, the interim order dated 01.08.2023 is hereby made absolute in the same terms and conditions.

9. In terms of above, this AB stands disposed of.

10. The case diary be returned.

JUDGE

Comparing Assistant