

GAHC010171502023



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

Case No. : AB/2732/2023

HUSSAIN AHMED
S/O LATE ABDUL ROZAK
R/O VILL- SINGUHA FULTALI,
PS. RAMKRISHNA NAGAR,
DIST. KARIMGANJ

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR S DAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 29.09.2023

- 1.** Heard Mr. K. Deka, learned counsel for the petitioner. Also heard Mr. R. J. Baruah, learned Additional Public Prosecutor for the State.
- 2.** This application under Section 438 of the Code of Criminal Procedure, 1973, has been filed by the petitioner, namely, Hussain Ahmed apprehending

his detention in connection with PRC P. S. Case No. 654/2023 corresponding to G. R. Case No. 121/2023 pending in the Court of learned Chief Judicial Magistrate, Karimganj.

3. It is submitted by the learned counsel for the petitioner that on the basis of FIR lodged by one Forjun Bibi on 09.01.2023 before the Officer-in-Charge of Ramkrishna Nagar Police Station, charge-sheet was laid against the present petitioner in the Court of learned Chief Judicial Magistrate, Karimganj under Sections 326/307/34 of the Indian Penal Code.

4. It is also submitted by the learned counsel for the petitioner that though the Court of learned Chief Judicial Magistrate, Karimganj issued the summons at the first instance, however, subsequently by order dated 06.09.2023, non-bailable warrant of arrest have been issued against the present petitioner and the next date fixed is 17.11.2023.

5. Learned counsel for the petitioner submits that the petitioner is ready to face trial and he is intending to appear before the learned Committal Court. However, he is apprehensive that as the charge-sheet has been laid under Section 307 of the Indian Penal Code, which prescribes punishment upto life imprisonment due to which he apprehends that learned Committal Court may not grant bail to the present petitioner due to embargo of Section 437 (1) (ii) as well as under Section 209 (a) of the Code of Criminal Procedure, 1973.

6. I have also heard learned Additional Public Prosecutor.

7. Considering the fact that the present petitioner is ready to face trial and also considering the fact that there is possibility of Committal Court not allowing his bail on his appearance due to embargo of Section 437 (1) (ii) as well as under Section 209 (a) of the Code of Criminal Procedure, 1973, it is hereby directed that the petitioner shall appear before the learned Committal

Court i.e., Court of learned Chief Judicial Magistrate on 17.11.2023, and if he does so, learned Committal Court shall allow him to go on bail of Rs. 30,000/- (Rupees Thirty Thousand) with one surety of like amount to the satisfaction of the said Court with the condition that he shall co-operate in his trial and shall make himself available before the learned Trial Court as and when so required by the learned Trial Court.

8. In the meanwhile, the operation of the non-bailable warrant of arrest issued against the petitioner shall be stayed till 17.11.2023.

9. With the above observation, this anticipatory bail application is disposed of.

JUDGE

Comparing Assistant