

GAHC010173492023



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

Case No. : AB/2778/2023

MD. MAHABUL HOQUE @ MAHBUL ALI
S/O- MANNAS KHA, R/O- KHANDA KHAITI, PABHOKHATI, P.O.
BHURAGAON, P.S. MAYONG, DISTRICT- MORIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY PP, ASSAM

Advocate for the Petitioner : MR. A BARUAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 14.08.2023

Heard Mr. A. Baruah, learned counsel for the petitioner. Also heard Mr. D. Das, learned Additional Public Prosecutor for the State.

This anticipatory bail application has been preferred under Section 438 of Code of Criminal Procedure, 1973, by the present petitioner, namely, Md. Mahabul Hoque @ Mahbul Ali , praying for grant of pre-arrest bail to the

petitioner, who is apprehending arrest in connection with PRC Case No. 1794/2019, corresponding to Jagiroad P. S Case No. 108/2019 under Sections 302/34 of the Indian Penal Code pending before the Court of learned Chief Judicial Magistrate, Morigaon.

The petitioner's case is that on the basis of an FIR, which was lodged on 26.02.2019 by one Md. Emrajul Haque, before the Officer-in-Charge of Jagiroad Police Station, *inter-alia*, alleging that one Ms. Alpina Khatun was found dead on 22.02.2019 and the first informant suspected the involvement of formant of FIR named accused person in the death of the said girl, the FIR named accused persons also included the name of the present petitioner, Md. Mahabul.

On receipt of the said FIR, Jagiroad P. S Case No. 108/2019 was registered, and investigation was initiated and ultimately charge-sheet was laid against the present petitioner under section 302/34, showing three accused persons including the present petitioner as an absconder and one Md. Sahabul Ali is on bail.

It is submitted by learned counsel for the present petitioner that out of four accused persons, named in the charge-sheet, only the present petitioner is yet to appear before the learned Trial Court.

It is submitted by the learned counsel for the petitioner that though the present petitioner has been shown as an absconder in the charge-sheet, however, he was not declared as an absconder under Section 82 of the Code of Criminal Procedure, 1973 by following the procedure laid down therein by any Court of Law and the learned Trial Court issued non-bailable warrant of arrest against the present petitioner, however, he is apprehending his arrest.

It is also submitted that he is ready to co-operate with the trial. It also

appears from record that this case is pending since 2019 before the learned Committal Court only due to non appearance of the present petitioner.

I have also heard learned Additional Public Prosecutor.

Considering the submission made by learned counsel for the petitioner as wells learned Additional Public Prosecutor and considering the facts and circumstance of this case, this anticipatory bail application is disposed with a direction to the present petitioner to appear before the Committal Court i.e., Court of learned Chief Judicial Magistrate, Morigaon within a period of fifteen(15) days from the date of this order, and if he does to within the said period, the Court of learned Chief Judicial Magistrate, Morigaon shall allow him to go on bail on such terms and conditions, as deemed fit by the said Committal Court .

With the above observations, this anticipatory bail application is hereby disposed of.

JUDGE

Comparing Assistant