

GAHC010198932023



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

Case No. : AB/3069/2023

JAHIRUL ISLAM LASKAR
S/O LATE ABDUL JALIL LASKAR
VILL- VICHINGSA PART-2,
P.S. HAILAKANDI, DIST. HAILAKANDI, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A M BARBHUIYA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 28-09-2023

Heard Mr. A.M. Barbhuiya, learned counsel for the petitioner.

Also heard Mr. B. Sarma, learned Additional Public Prosecutor for the State of Assam.

This is an application filed under **Section 438 Cr.P.C.**, praying for pre-arrest

bail by the petitioner namely, **Jahirul Islam Laskar**, who is apprehending arrest in connection with **Hailakandi P.S. Case No. 202/2023**, registered under Sections **120(B)/420/406 of IPC corresponding to G.R. Case No. 991/2023**.

Case diary is received and perused the same.

It is submitted by the learned counsel for the petitioner that the petitioner is one of the employees of the pharmacy wherein the other accused is the owner, who was arrested in the case and subsequently, bail was granted to him. It is also submitted that the petitioner is not a doctor or a pharmacist but he is the employee who used to sale the medicines in the pharmacy and took money by selling the same. He did not prescribe any medicines to any persons nor did he examine any patients showing himself as doctor. Therefore, considering the background of the case, the benefit of pre-arrest bail is extended to the petitioner.

On the other hand, Mr. B. Sarma, learned Additional Public Prosecutor for the State of Assam has opposed the prayer in granting privilege of pre-arrest bail to the petitioner and submitted that some of the witnesses disclosed before the I.O that they used to come to pharmacy for medical checkup for which they also used to pay money to the owner of the pharmacy.

I have considered the submissions made by the learned counsel for the parties. I have also carefully perused the case diary.

It reveals that as per F.I.R. the co-accused was running a pharmacy at Lala road Hailakandi. The allegations against the petitioner and another accused who is the owner of the pharmacy is that they used to check up some patient in the pharmacy after taking sum of Rs. 200/- from them in the name of health checkup. It also appears from the FIR that the petitioner is neither a doctor nor

a pharmacist. He is only of a staff of the pharmacy of co-accused who is the owner of the pharmacy.

On perusal case diary, it reveals that some of the documents were seized during investigation regarding ownership of the pharmacy but no prescriptions or any documents are available in the case diary showing that the petitioner prescribed any medicines to any of the patients treating them as Medical practitioner. No amount of money has been recovered from the possession of the present petitioner. Amount of Rs. 1200/- was seized from the cash box of the pharmacy.

Accordingly, it is provided that in the event of arrest of the petitioner, named above, in connection with **Hailakandi P.S. Case No. 202/2023**, registered under Sections **120(B)/420/406 of IPC corresponding to G.R. Case No. 991/2023**, he shall be released on bail on furnishing a bail bond of **Rs.20,000/-** with **a suitable surety** of the like amount, to the satisfaction of the arresting authority.

The direction for pre-arrest bail is subject to the conditions that the petitioner:

- (a) shall appear before the Investigating Police Officer within 10 (ten) days from today and shall co-operate with the investigation;
- (b) shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer.

The anticipatory bail application stands disposed of accordingly.

Return the case diary.

JUDGE

Comparing Assistant