

GAHC010214452023



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

Case No. : AB/3274/2023

JIBAN SUTRADHAR
S/O DHARENDRA SUTRADHAR
R/O VILL- KAIBATRAGAON
P.S. SIMEN CHAPORI
DIST. LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. D SARMAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

16.10.2023

Heard Mr. D. Sarmah, learned counsel for the applicant and Mr. P. Borthakur, learned Additional Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with **Silapathar P.S. Case No. 79/2023**, under Section 363 of the IPC, corresponding to GR Case No.

204/2023, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicant namely, **Sri Jiban Sutradhar** for grant of pre-arrest bail.

3. The said case has been registered on the basis of one F.I.R., lodged by one Prabin Lahon, on 17.04.2023. The essence of allegation made in the FIR is that on 16.04.2023, while his daughter was returning home from Bihu function, then one Jiban Sutradhar of Simen Chapori, kidnapped his daughter.

4. Mr. Sarmah, learned counsel for the applicant submits that the investigation of the case has already been completed and the IO has laid charge sheet against the present applicant, under Section 366 of the IPC and now the case is pending before the learned Chief Judicial Magistrate, Dhemaji. Mr. Sarmah further submits that the applicant is ready to face trial and that he will appear before the learned court below, on each and every date and therefore, it is contended to allow the petition.

5. On the other hand, Mr. Borthakur, learned Additional Public Prosecutor, by referring to the statement of the victim girl recorded under Section 164 of the Cr.P.C., submits that the victim has not implicated the applicant with the offence alleged in the FIR and she has stated that there was love affairs between her and the applicant.

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

7. It appears that after completion of the investigation the IO has

submitted charge sheet against the applicant under Section 366 of the IPC, but the learned court below has taken cognizance of the offence under Section 363 of the IPC.

8. Since, charge sheet has been submitted, there was no question of hampering the investigation or tampering the witnesses. Now trial will start and the applicant has to prepare his defence. Moreover, the statement of the victim girl, recorded under Section 164 of the Cr.P.C., disclosed that she eloped with the applicant voluntarily.

9. Under the aforesaid facts and circumstances this Court is inclined to extend privilege of pre-arrest bail to the applicant. Accordingly, it is provided that in the event of arrest of the applicant, in connection with **Silapathar P.S. Case No. 79/2023**, under Section 363 of the IPC, corresponding to GR Case No. 204/2023, he shall be enlarged on pre-arrest bail on his executing a bond of Rs. 50,000/- only, with one surety of like amount to the satisfaction of the arresting authority.

10. The above privilege is, however, subject to the following conditions:

(i) that the applicant shall appear before the learned court below on 31.10.2023, and apply for regular bail and in the event of filing such an application, the learned court below shall consider the same, in accordance with law;

(ii) that the applicant 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; and

(iii) that the applicant shall not leave the jurisdiction of the learned **Chief Judicial Magistrate, Dhemaji**, without prior permission.

11. Till 31.10.2023, this interim order will be continued.

JUDGE

Comparing Assistant