

GAHC010214562023



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

Case No. : AB/3310/2023

MINTU KUMAR DAS
S/O DHARMA KT. DAS,
R/O METUALUCHI, GAJIA ROAD, P.S.- BARPETA ROAD, DIST.- BARPETA,
ASSAM.

VERSUS

THE STATE OF ASSAM
REP. BY THE P.P., ASSAM.

Advocate for the Petitioner : MR D MEDHI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

16.11.2023

Heard Mr. K. Thakur, learned counsel for the petitioner. Also heard Mr. B. Sharma, learned Additional Public Prosecutor, Assam.

This application under Section 438 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, Mintu Kumar Das, who is

apprehending his arrest in connection with Nalbari P.S. Case No. 389/2023 under Sections 498A/313/506/294/34 of the Indian Penal Code.

The gist of accusation in this case is that one Smt. Pompe Das, who is the wife of the present petitioner has lodged an FIR on 08.09.2023 before the Officer-In-Charge of Nalbari (Sadar) Police Station, *inter-alia*, alleging that the petitioner has subjected the first informant to mental and physical cruelty and as a result of the said cruelty, she suffered miscarriage of her pregnancy.

It is also alleged in the FIR that the petitioner was having illicit relationship with one another lady and due to the instigation by the said lady, the petitioner used to torture the first informant.

Learned counsel for the petitioner has submitted that the petitioner and the first informant, though husband and wife in relationship are living separately from each other since last 1 year.

It is also submitted by the learned counsel for the petitioner that the first informant suspects that the petitioner is having an illicit relationship with another lady and due to this suspicion, she has lodged a false FIR against the petitioner.

It is also submitted that the allegations made against the present petitioner in the FIR are not true.

On the other hand, learned Additional Public Prosecutor has produced the case diary of Nalbari P.S. Case No. 389/2023 and has submitted that in the meanwhile, the Investigating Officer has already recorded the statement of the victim and a few other witnesses and there are sufficient incriminating materials against the present petitioner.

I have considered the submissions made by learned counsel for the petitioner and has perused the case diary of Nalbari P.S. Case No. 389/2023. On

perusal of the case diary, it appears that there are sufficient incriminating materials against the present petitioner. However, as the dispute between the petitioner and the informant is apparently a matrimonial dispute and as numbers of witnesses have already been examined by the Investigating Officer, this Court is of the considered opinion that custodial detention of the present petitioner may not be necessary for fair completion of the investigation of this case, if the petitioner co-operates in the investigation.

In view of the above discussion, the petitioner, namely, Mintu Kumar Das, is hereby directed to appear before the Investigating Officer of Nalbari P.S. Case No. 389/2023 within a period of 10(ten) days from the date of this order and co-operate in the investigation. If he does so, within the stipulated period of time, in the event of his arrest in connection with Nalbari P.S. Case No. 389/2023, the above named petitioner shall be allowed to go on interim bail of Rs. 30,000/- with a suitable surety of like amount to the satisfaction of the arresting authority, subject to the conditions that:-

(i) the petitioner shall not directly or indirectly make any inducement threat or promise to the victim/informant, or to any other persons who may be acquainted with the facts of the case so as to dissuade such person from disclosing such facts before the Investigating Officer or to any Court; and

(ii) the petitioner shall co-operate in the investigation.

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

JUDGE

Comparing Assistant