

GAHC010220302023



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

Case No. : AB/3369/2023

JAWAYUN HUSSAIN
S/O SAHABUDDIN SHEIKH
R/O BILASIPARA TOWN,
WARD NO. 7, KUKURIRPAR,P.S. BILASIPARA, DIST. DHUBRI, ASSAM
PIN-783348

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A A R KARIM

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

18.10.2023

Heard Mr. A.A.R. Karim, learned counsel for the applicant and Mr. D. Das, learned Additional Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with **Bilasipara P.S. Case No. 327/2023**, under Sections 120[B]/383 of the IPC, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicant namely, **Sri Jawayun Hussain** for grant of pre-arrest bail.

3. The said case has been registered on the basis of one F.I.R., lodged by Fatema Khautn, on 04.09.2023. The essence of allegation made in the FIR is that on 29.08.2023, at about 2 pm, she met one Kodom Ali, while she was proceeding to Bilasipara town for marketing, then Kodom Ali taken her to his rented house situated at Kobitor Khowa and he took photograph of her with one Kaincha and thereafter, demanded money for having illicit relation with him and received a sum of Rs. 8,000/- from her, by way of Phone-Pay.

4. Mr. Karim, learned counsel for the applicant submits that the applicant is innocent and no way involved with the offence alleged in the FIR and that he is ready to cooperate with the investigating agency, and therefore, it is contended to allow the petition.

5. On the other hand, Mr. Borthakur, learned Additional Public Prosecutor, has produced the case diary before this court and fairly submits that the case diary failed to disclose any incriminating materials against the present 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 the case diary failed to disclose any incriminating materials against the present applicant and therefore, this Court is of the view that the further custodial interrogation of the applicant seems to be unwarranted, in the interest of investigation.

8. Accordingly, it is provided that in the event of arrest of the applicant, in connection with **Bilasipara P.S. Case No. 327/2023**, under Sections 120[B]/383 of the IPC, he shall be enlarged on pre-arrest bail on executing a bond of Rs. 50,000/- only, with one surety of like amount to the satisfaction of the arresting authority.

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

(i) that the applicant shall make **himself** available for interrogation by the Investigating Officer as and when required;

(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 **SDJM [M], Bilasipara**, without prior permission.

10. In terms of above, this AB stands disposed of.

11. The case diary be returned.

JUDGE

Comparing Assistant