

GAHC010223352022



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

Case No. : AB/3241/2022

HANIF ALI
S/O HUSSAIN ALI
VILL- SRIGRAM PART-VI
P.O. HATIPOTA, P.S. CHAPAR
DIST. DHUBRI, ASSAM
PIN-783348

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MD J ALOM

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

22.08.2023

Heard Mr. M. Islam, learned counsel for the applicant. Also heard Mr. R.J. Baruah, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. Apprehending arrest in connection with Chapar P.S. Case No.243/2021 registered under Sections 457/380/120(B)/354/376 IPC, this application under Section 438 Cr.P.C. is preferred by the applicant Hanif Ali for grant of pre-arrest bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of one FIR lodged by one Abu Bakkar Siddique on 26.05.2021. The allegation levelled in the FIR dated 26.05.2021 is that on the night of 25.05.2021 at about 10:00 p.m. some unknown miscreants entered into the room of his brother Abdul Wahab and also entered into the room of another brother Abdul Rahim by breaking lock of the room in absence of Abdul Rahim and his family members and stolen some ornaments of gold of worth ₹ 50,000/- from the room of Abdul Wahab and they did so by administering psychotropic substance in the room of Abdul Wahab, and also stolen some ornaments of gold from the room of Abdul Rahim.

4. Mr. Islam, learned counsel for the applicant, submits that this Court was pleased to grant interim projection to the applicant vide order dated 07.11.2022, and pursuant to the said order, the applicant had appeared before the I.O. and his statement is recorded and he has been cooperating with the investigating agency and that the allegation levelled against the applicant are false and he is no way involved with the offence under Section 120(B)/354/376 IPC, which are added later on, and therefore, it is contended to make the interim order dated 07.11.2022, absolute in the same terms and conditions.

5. On the other hand, Mr. R.J. Baruah, learned Additional Public Prosecutor has produced the case diary before this Court along with the 164 statement of the victim girl and submits that the victim woman has implicated the applicant with the offence alleged and the same are serious in nature and therefore, Mr. Baruah contended to dismiss the petition.

6. To pointed query of this Court, Mr. Baruah referring to the materials available in the case diary submits that there is no material in the case diary to suggest misusing the liberty granted to the applicant vide order dated 07.11.2022.

7. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Baruah, learned Additional P.P.

8. It appears that the applicant, pursuant to the order of this Court, dated 07.11.2022, had appeared before the I.O. and his statement is recorded. Further, it appears that he has been cooperating with the investigating agency and there is no material to suggest that he had misused the liberty granted to him by this Court. Further, it appears that the case was registered on 26.05.2021 and since then more than 2 years elapsed. The I.O. got sufficient time for investigation.

9. Having regards to above, and also having regards to the submission of learned Advocates of both sides, as well as the stage of investigation, custodial interrogation of the applicant seems to be not warranted here in this case and accordingly, this Court is inclined to make the interim order dated 07.11.2022, absolute in the same terms and conditions.

10. In terms of above, this anticipatory bail application stands disposed of.

11. CD be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant