

GAHC010223942022



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

Case No. : AB/3261/2022

SOPIAR RAHMAN @ SOFIOR RAHMAN
S/O MOHUR UDDIN
R/O SHIBER ALGA, P.S. FAKIRGANJ, DIST. DHUBRI, ASSAM

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 SOUMITRA SAIKIA

ORDER

11-04-2023

Heard Mr. A.A.R. Karim, learned counsel for the petitioner. Also heard Mr. R.R. Kaushik, learned Addl. Public prosecutor, Assam for the State respondent. The petitioner, namely, Sopiara Rahman @ Sofior Rahman has filed an application under Section 438 Cr.P.C. with a prayer for pre-arrest bail as he is apprehending

arrest in connection with Fakirganj P.S. Case No.118/2022 registered under Section 448/376 of the IPC.

According to the petitioner an FIR was lodged on 07.07.2022 by the informant one Musstt. Amolzan Nessa. As per, the FIR accused petitioner attempted to establish illicit relationship with the informant and physical relationship forcibly against her consent. However, when she raised hue and cry neighbours came to her house to rescue her and then, the accused escaped. There was an attempt by the village elders to settle the matter, however, since the accused did not come forward to settle the matter, the FIR was lodged and in the process, slight delay had occurred in lodging the incident which was occurred on 01.07.2022 and the FIR was lodged on 07.07.2022. After lodging the FIR, the police proceeded to investigate the matter.

The case diary was called for by this Court.

Today learned Additional P.P. has produced the case diary as called for.

Learned counsel for the parties have been heard and the petition as well as the case diary have been perused.

The case diary reveals statement of the victim recorded under Section 164 Cr.P.C. where she reiterated her allegations in the FIR made against the accused petitioner.

Medical report does not reveal any injuries on her body or any evidence of recent physical relationship.

The statements of the witnesses have been examined and the statements have been recorded. However charge-sheet has not been filed.

Learned counsel for the petitioner has also referred to an affidavit sworn by the informant stating that the matter has been amicably settled in the persons of the villagers of her locality. However, the case diary does not reveal any such

affidavit being filed or presented before the IO.

Considering the matter in its entirety, this Court is of the view that the prayer for anticipatory bail can be granted at this stage.

Accordingly, this Anticipatory Bail petition is allowed.

In the event of his arrest in connection with the aforesaid case the petitioner, named above, shall be released on pre-arrest bail upon furnishing a bail bond of Rs.20,000/- (Rupees Twenty Thousand) only with 1 (one) local surety of like amount to the satisfaction of the arresting authority, subject, of course to the following conditions:

- (i) That the petitioner shall appear before the investigating Officer within 7 days from today;
- (ii) That the petitioner shall not hamper or tamper with the investigation in any manner;
- (iii) That the petitioner 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 office; and
- (iv) That the petitioner shall not change his residence without obtaining prior written permission from the concerned investigating officer of the case.

In the event, the petitioner is found to have violated any of the above conditions or is found to be involved in other offences, the Investigating Officer shall be at liberty to apply for recall/cancellation of the interim bail granted to the petitioner.

The Anticipatory Bail petition stands disposed of.

Case diary be returned.

JUDGE

Comparing Assistant