

GAHC010225102023



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

Case No. : AB/3411/2023

SAJEDA KHATUN
W/O LATE JAHEDUL ISLAM
R/O VILL- KAWAIMARI, BLOCK
NO. 11, P.S. SARTHEBARI
DIST. BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. S U AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 17-10-2023

Heard Mr. S.U. Ahmed, learned counsel for the applicant and also heard Mr. P. Borthakur, learned Additional Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with Sarthebari P.S. Case No. 145/2023 under Sections 365/34 of the Indian Penal Code, this application under Section 438 Cr.P.C. is preferred by the applicant, namely, Sajeda Khatun, for grant of pre-arrest bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by one Abdul Barek on 12.09.2023. The essence of allegation made in the aforesaid FIR dated 12.09.2023 is that on 05.09.2023, at about 8.30 A.M., his daughter Smti. 'X', along with Jesmina Khatun (accused no. 1), went to the school and since then she has not been returning home and Jesmina Khatun also took the aadhar card of his daughter.
4. Mr. Ahmed, learned counsel for the applicant submits that the applicant is innocent and no way involved with the offence alleged in the FIR and the daughter of the applicant is also missing from the same date and to that effect, one FIR has also been lodged and the applicant is ready to cooperate with the investigating agency and, therefore, it is contended to allow this petition.
5. On the other hand, Mr. P. Borthakur, learned Additional Public Prosecutor has produced the case diary before this Court and submits that the materials, so far collected in the case diary, are inadequate to show the complicity of the applicant with the offence alleged in the FIR.
6. Having heard the submissions 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. Borthakur, learned Additional Public Prosecutor.
7. In view of materials collected so far in the case diary and also in view of the nature of allegation and the role, allegedly played by the applicant in commission of the offence, her custodial interrogation seems to be not warranted here in this case and therefore, this Court is inclined to grant the privilege of pre-arrest bail to the applicant.
8. Accordingly, it is provided that in the event of arrest of the applicant, namely, Sajeda Khatun, in connection with Sarthebari P.S. Case No. 145/2023 under Sections 365/34 of the Indian Penal Code, she shall be released on pre-arrest bail on her executing a bond of Rs.50,000/- with one surety of like amount to the satisfaction of the arresting authority. The above privilege is, however, subject to the following three conditions:
 - (i) The applicant shall make herself available for interrogation by the Investigating Officer as and when required;
 - (ii) The applicants 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
 - (iii) The applicant shall not leave the jurisdiction of the learned Chief Judicial Magistrate,

Barpeta, without prior permission.

9. In terms of above, this anticipatory bail application stands disposed of. Case Diary be returned.

JUDGE

Comparing Assistant