

GAHC010228052023



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

Case No. : AB/3467/2023

MUKTAR HUSSAIN
S/O LATE MOKBUL AHMED,
R/O BARJARI MAJGAON, P.S.- JAMUNAMUKH, DIST.- HOJAI, ASSAM.

VERSUS

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

Advocate for the Petitioner : MR. K BORUAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

17.10.2023

Heard Mr. K. Boruah, learned counsel for the applicant and also heard Mr. K. Baishya, learned Additional Public Prosecutor for the State respondent.

2. This application, under Section 438 Cr.P.C. is preferred by the applicant, namely, Muktar Hussain, who has been apprehending arrest in connection with Jamunamukh P.S. Case No. 47/2023 under Sections 153/153(A)/295(A)/417 of the Indian Penal Code.

3. It is to be noted here that above noted case has been registered on the basis of an FIR lodged by

one Arobindo Kumar and Nand Kishore Das on 07.09.2023. The essence of allegation made in the aforesaid FIR dated 08.09.2023 is that the informant, namely, Arobindo Kumar and Sri Nand Kishore Das, on 07.09.2023, during day hours, entered into a hotel in the name and style ' Perves Hotel' at Jamunamukh Daily Bazar and ordered to serve mutton, if available. Thereafter, they have been served rice and mutton, but they found that instead of serving mutton they have been served with beef and thereby, hurt their religious sentiments.

4. Mr. Boruah, learned counsel for the applicant submits that the applicant is the owner of the ' Perves Hotel' and he is no way involved with the offence alleged in the FIR and he is ready to cooperate with the Investigating Agency and therefore, it is contended to allow this petition.

5. On the other hand, Mr. K. Baishya, 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. Baishya, learned Additional Public Prosecutor.

7. In view of the materials collected so far in the case diary and also considering the nature and accusation and the punishment prescribed for the offence, custodial interrogation of the applicant 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, Muktar Hussain, in connection with Jamunamukh P.S. Case No. 47/2023 under Sections 153/153(A)/295(A)/417 IPC, he shall be released on pre-arrest bail on his 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 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 office; and
- (iii) The applicant shall not leave the jurisdiction of the learned Chief Judicial Magistrate,

Hojai, without prior permission.

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

JUDGE

Comparing Assistant