

GAHC010229192022



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

Case No. : AB/3341/2022

RAMEN LAHAN
S/O SRI TULARAM LAHAN
R/O VILL- DEONABORI
P.S. GOHPUR, DIST. BISWANATH, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. K BORUAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 18-01-2023

Heard Mr. K. Boruah, learned counsel for the petitioner and Mr. B. Sharma, learned Additional Public Prosecutor for the respondent State of Assam.

2. By this application under Section 438, Code of Criminal Procedure, 1973 [CrPC], the petitioner viz. Sri Ramen Lahan has approached this Court

seeking the benefit of pre-arrest bail, apprehending his arrest, in connection with Gohpur Police Station Case no. 184/2022, registered for offences punishable under Sections 498A/342/307/376/511/34, Indian Penal Code [IPC].

3. The First Information Report [FIR] in connection with Gohpur Police Station Case no. 184/2022 has been lodged by the informant who is the wife of the petitioner, on 26.10.2022. From the materials in the case diary, it is noticed that earlier, another FIR was lodged by the same informant on 14.09.2022 bringing allegations of physical and mental torture upon her by the petitioner herein on demand of dowry after solemnization of their marriage on 28.04.2022. The said FIR was registered as Gohpur Police Station case no. 147/2022 under Section 498A, IPC. The petitioner was granted bail in connection with Gohpur Police Station case no. 147/2022. Subsequently, the informant has lodged the FIR in connection with Gohpur Police Station Case no. 184/2022 on 26.10.2022 against the petitioner and other members of his family with more allegations than those alleged in the FIR dated 14.09.2022 against them. In the FIR dated 26.10.2022, the events/incidents which the informant mentioned are up to 09.09.2022. The FIR dated 14.09.2022 has made mention of events/incidents upto 09.09.2022.

4. An additional allegation of attempt to rape the informant has been brought against the brother of the petitioner, Sri Munin Lahon in the subsequent FIR dated 26.10.2022. In course of investigation of the instant case, Sri Munin Lahon was arrested on 28.10.2022 and subsequently, he was released on bail on 28.11.2022 by this Court in B.A. no. 3029/2022. There are no allegations as regards the offence under Sections 376/511, IPC against the petitioner. The informant in the subsequent FIR has alleged that on 05.09.2022, the petitioner

and his brother, Sri Munin Lahon by confining her inside a room, tried to administer poison but she saved herself by raising hue and cry. The informant has reiterated the same version, as in the FIR, in her statement recorded under Section 164, CrPC. Conspicuously, the informant did not mention the incident dated 05.09.2022 in her earlier FIR lodged on 14.09.2022.

5. The petitioner was provided interim protection by order dated 15.11.2022 with a further direction to him to appear before the Investigating Officer [I.O.] of the case within 10 [ten] days from 15.11.2022. The learned petitioner has submitted that in deference to the order dated 15.11.2022, the petitioner has appeared before the I.O. of the case. The learned Additional Public Prosecutor has also submitted that the petitioner has appeared before the I.O. of the case and his statement has already been recorded by the I.O. of the case and the same is available in the case diary.

6. Having regard to the fact that few of the events/incidents alleged in the subsequent FIR dated 26.10.2022 have not been alleged in the earlier FIR lodged by the same informant on 14.09.2022; the nature of allegations against the petitioner in the two FIRs; the fact that the petitioner was already granted bail in connection with FIR dated 14.09.2022 for the offence under Section 498A, IPC; and the fact that the petitioner has already appeared before the I.O. of the case and, thereby, joined the investigation, this Court is of the considered view that custodial interrogation of the petitioner for the purpose of carrying out further investigation of the case is not necessary and his release on pre-arrest bail, at this stage of investigation, is not likely to bring any adverse effect in the further investigation of the case, provided he continues to extend his assistance and co-operation in the further investigation of the case.

7. Accordingly, the interim protection granted to the petitioner by order dated 15.11.2022, is made absolute, subject to the following conditions :

[i] the petitioner shall co-operate with the investigation and make himself available for interrogation whenever required by the Investigating Officer (I.O.) of the case;

[ii] the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer;

[iii] the petitioner shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;

[iv] the petitioner shall maintain law and order and he shall not commit an offence similar to the offence of which he is accused, or of the commission of which he is suspected; and

[v] the petitioner shall regularly remain present during the trial and co-operate the Court to complete the trial for the above offences, if charge sheeted in the case.

8. The bail application stands disposed of in the aforesaid terms.

JUDGE

Comparing Assistant