

GAHC010229782023



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

Case No. : AB/3532/2023

BOBITA GOGOI @ BOBITA GOGOI DEY
W/O- SRI UTTAM DEY, R/O- H/NO 14(B), PANJABARI, BYELANE NO. 3,
NABAJYOTINAGAR NEAR HARI MANDIR, GHY-37, P.S. SATGAON, DIST.
KAMRUP(M), ASSAM

VERSUS

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

Advocate for the Petitioner : MR. M K SARMA

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

07.11.2023

Heard Mr. M.K. Sarma, learned counsel for the applicant and also heard Mr. B. Sarma, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application, under Section 438 Cr.P.C. is preferred by the applicant, namely,

Bobita Gogoi @ Bobita Gogoi Dey, who has been apprehending arrest in connection with Satgaon P.S. Case No.174/2023, under Section 406/420/506 IPC, 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 Monoranjan Gope on 05.09.2023. The essence of allegation made in the aforesaid FIR is that on the pretext of providing job to 11 nos. of persons by giving deceitful assurance to the informant, the applicant and her husband Uttam Dey had taken a sum of ₹ 40,00,000/- from him and after receiving the said amount they failed to provide job and also failed to return the said amount and on 03.09.2023 when the informant asked applicant to return the amount, she refused to return the same and threatened him with dire consequences.

4. Mr. Sarma, learned counsel for the applicant submits that the allegations made in the FIR are false and fabricated and the applicant is no way involved with the offence alleged in the FIR and she is ready to cooperate with the investigating agency and she has received notice under Section 41A Cr.P.C. from the I.O. concerned and pursuant to the said notice she had appeared before the I.O. along with her husband and she has been cooperating with the investigating agency and as such her custodial detention may not be required in the interest of investigation and therefore, Mr. Sarma contended to allow this petition.

5. On the other hand, Mr. B. Sarma, learned Additional Public Prosecutor, submits that the I.O. has collected some materials in support of the allegation made in the FIR, but the informant and the witnesses so examined failed to produce any documentary proof of giving money to the applicant and further, Mr. Sarma submits that the applicant was served with a notice under Section 41A Cr.P.C. and pursuant to the said notice, the applicant had appeared before the I.O. and her statement is also recorded.

6. 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. Sarma, learned Additional P.P.

7. It appears that on receipt of notice under Section 41A Cr.P.C., the applicant and her husband had appeared before the I.O. and they have been cooperating with the investigating agency. In view of above and also in view of the materials collected so far in the case diary, custodial interrogation of the applicant seems to be not warranted here in this case and therefore, this Court is inclined to allow this petition.

8. It is provided that in the event of arrest of the applicant, namely, Bobita Gogoi @ Bobita Gogoi Dey, in connection with Satgaon P.S. Case No.174/2023, under Section 406/420/506 IPC, she shall be released on pre-arrest bail on her executing a bond of ₹ 50,000/- with one surety of the like amount to the satisfaction of the arresting authority. The above privilege is, however, subject to the following 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 officer; and
- (iii) The applicant shall not leave the jurisdiction of the learned C.J.M., Kamrup(M), without prior permission

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

Sd/- Robin Phukan
JUDGE

Comparing Assistant