

GAHC010232872023



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

Case No. : AB/3516/2023

SANJIB ISLARY
S/O LATE HONGLA ISLARY,
VILL.- BETAPARA, BAMWNPARA KOKRAJHAR (BTC), ASSAM, P.O. AND
P.S.- KOKRAJHAR, PIN- 783370, DIST.- KOKRAJHAR, ASSAM.

VERSUS

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

Advocate for the Petitioner : MR P P MEDHI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

17.11.2023

Heard Mr. P.P. Medhi, learned counsel for the petitioner. Also heard Mr. B. Sharma, learned Additional Public Prosecutor, Assam.

This application under Section 438 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, Sanjib Islary, who is apprehending

his arrest in connection with Kokrajhar PS Case No. 319/2023 under Section 448/326/307/34 of the Indian Penal Code.

The gist of accusation in this case is that on 14.09.2023, one S. Marak has lodged an FIR before the Officer-In-Charge of Kokrajhar Police Station, *inter-alia*, alleging that on 13.09.2023 at about 11:00 AM, the FIR named accused persons including the present petitioner, entered into the house of the first informant and assailed the husband of the first informant causing injuries on the person of the husband of the first informant.

Learned counsel for the petitioner has submitted that the allegations levelled against the petitioner in the FIR is not true.

It is submitted that infact on that day, the husband of the informant had teased the daughter of the present petitioner and due to that fact there was an altercation between the family members of the two families.

It is further submitted by the learned counsel for the petitioner that there are four named accused in the FIR, out of which other three named accused persons were already grant bail by learned Sessions Judge, Kokrajhar.

On the other hand, learned Additional Public Prosecutor has produced the case diary of Kokrajhar PS Case No. 319/2023 and has submitted that though there are incriminating materials against the present petitioner.

However, from the injury report, it appears that the injury sustained by the victim are not grievous in nature, they are of simple in nature caused by sharp weapon.

I have considered the submissions made by learned counsel for both the sides and have perused the case diary of the Kokrajhar PS Case No. 319/2023 as well as injury report of the victim.

Considering the fact that the other named co-accused are already

enlarged on bail as well as considering the progress made in the investigation and the fact that the victim has sustained simple injury, this Court is of the considered opinion that custodial detention of the present petitioner may not be necessary, if the petitioner co-operates with the Investigating Officer in the investigation.

In view of above, the petitioner, namely, Sanjib Islary, is hereby directed to appear before the Investigating Officer of Kokrajhar PS Case No. 319/2023 within a period of 10(ten) days from the date of this order and co-operate in the investigation. If he does so, within the stipulated period of time, in the event of his arrest in connection with Kokrajhar PS Case No. 319/2023, the above named petitioner shall be allowed to go on interim bail of Rs. 30,000/- with a suitable surety of like amount to the satisfaction of the arresting authority, subject to the conditions that:-

(i) the petitioner shall not directly or indirectly make any inducement threat or promise to the victim or to any other persons who may be acquainted with the facts of the case so as to dissuade such person from disclosing such facts before the Investigating Officer or to any Court; and

(ii) the petitioner shall co-operate in the investigation.

With the above observation, this anticipatory bail application is hereby disposed of.

Send back the case diary.

JUDGE

Comparing Assistant