

GAHC010238492023



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

Case No. : AB/3627/2023

SOFIQUUL ISLAM
S/O LATE ASKAR ALI
VILL- KATLAMARI
P.O. KHALISABHITA,
P.S. LAKHIPUR
DIST. GOALPARA, ASSAM
PIN-783330

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR H R A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

08.12.2023

Heard Mr. H.R.A. Choudhury, learned Senior counsel assisted by Mr. A.F.N.U.

Mollah, 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, Sofiquil Islam, who has been apprehending arrest in connection with South Salmara P.S. Case No.132/2014 corresponding to G.R. Case No.3730/2014, under Section 365/387 IPC and subsequently, added Sections 364A/302 IPC, for grant of pre-arrest bail.

3. It is to be noted here that the above-mentioned case has been registered on the basis of an FIR lodged by one Jalnur Hussain of Hatsingimari on 05.09.2014. The essence of allegation made in the aforesaid FIR is that on 18.08.2014, at about 6:30 a.m., his elder son, namely, Ashad Ul Amin (Rahul), aged 19 years, had gone missing from his house. Thereafter, on 21.08.2014, he received phone call from Mobile Nos. 8135008043 and 8724093584 demanding money in lieu of releasing his son.

4. Mr. Choudhury, learned Senior counsel for the applicant submits that this Court vide order dated 19.10.2023, was pleased to extend interim protection to the applicant and pursuant to the said order, the applicant had appeared before the I.O. and he has been extending cooperation with the investigating agency and that the applicant is innocent and he is no way involved with the offence alleged in the FIR and therefore, a contention is being made that the interim order dated 19.10.2023, may be made absolute, in the same terms and conditions.

5. On the other hand, Mr. B. Sarma, learned Additional Public Prosecutor, has produced the case diary before this Court and submits that though the applicant had appeared before the I.O. and his statement is recorded, yet, the applicant was absconding since the time of commission of the offence and there is material to show that the kidnapped boy was handed over to the present applicant and the boy is yet to be recovered. Mr. Sarma, therefore, submits that custodial interrogation of the applicant is necessary to recover the kidnapped boy and therefore, Mr. Sarma contended that the

petition may be dismissed.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the case record 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 the privilege of interim pre-arrest bail was extended to the applicant vide order dated 19.10.2023, and pursuant to the said order, the applicant had appeared before the I.O. and he has been cooperating with the investigating agency. The case diary also indicates that the I.O. has collected sufficient incriminating materials against the present applicant, who has been absconding since commission of the offence in the year 2014. The victim boy is yet to be recovered. To recover the victim boy and to unearth the link, custodial interrogation of the applicant is indispensable and in that view of the matter, this Court is of the view that this is not a fit case where the privilege of pre-arrest bail can be granted to the applicant and accordingly, the petition stands dismissed. Consequently, the interim order dated 19.10.2023 stands vacated.

8. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant