

GAHC010242112023



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

Case No. : AB/3675/2023

BIRAJ KR BORA
S/O. SRI BIREN BORA,
R/O. PULIKAITONI,
P.O. PULILAITONI, PS. GHILADHARI,
DIST. GOLAGHAT, ASSAM.

VERSUS

THE STATE OF ASSAM
REPRESENTED BY PP, ASSAM.

Advocate for the Petitioner : MR U S BORGOHAIN

Advocate for the Respondent : PP, ASSAM

BEFORE

HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

16.11.2023

Heard Mr. U.S. Borgohain, 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, Biraj Kr. Bora, who is apprehending his arrest in connection with Ghiladhari P.S. Case No. 13/2023 under Sections 341/326/307 of the Indian Penal Code.

The accusation against the present petitioner in this case is that on 27.09.2023, one Nabin Chandra Bora has lodged an FIR before the Officer-In-Charge of Ghiladhari Police Station, *inter-alia*, alleging that on 26.09.2023, at around 7:30 PM, when the son of the first informant, namely, Partha Pratim Bora was returning back home from the market and when he reached in front of Pulikaitoni Gaon L.P School, he was assaulted on his hand, chest and neck by means of sharp weapon, who was assaulted by the present petitioner.

Learned counsel for the petitioner has submitted that the petitioner is a Government servant and the victim is a friend of the present petitioner and there was an altercation between both of them.

Learned counsel for the petitioner has also submitted that as the petitioner is a Government servant, there is no possibility of petitioner fleeing away from the course of justice and he is ready to co-operate in the investigation.

On the other hand, learned Additional Public Prosecutor has produced the case diary of Ghiladhari P.S. Case No. 13/2023 which was called for in connection with this case and has submitted that there are sufficient incriminating materials against the present petitioner and has opposed the grant of bail to the present petitioner at this stage.

I have considered the submission made by learned counsel for both the sides and has perused the materials on record including the case diary of Ghiladhari P.S. Case No. 13/2023, and the injury report as well as the statement

of the victim recorded under Section 161 of the Code of Criminal Procedure, 1973.

It appears from the injury report that the victim sustained 3(three) wounds and though the weapon which is used in inflicting the injuries to the victim is a sharp weapon. However, the nature of injury sustained by the victim is found to be of simple in nature.

It also appears from the case diary, in the meanwhile, the Investigating Officer has recorded the statement of relevant witnesses.

Under such circumstances, this Court is of the considered opinion that if the petitioner co-operates with the Investigating Officer, his custodial interrogation may not be necessary for fair completion of the investigation of this case, if the petitioner co-operates in the investigation.

Hence, the petitioner, namely, Biraj Kr. Bora, is hereby directed to appear before the Investigating Officer of Ghiladhari P.S. Case No. 13/2023 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 Ghiladhari P.S. Case No. 13/2023, 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

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

Send back the case diary.

JUDGE

Comparing Assistant