

GAHC010242552022



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

Case No. : AB/3528/2022

MOYNAL HOQUE
S/O SOFER ALI
R/O VILL- SUAPATA PART-V,
P.O. BILASIPARA
DIST. DHUBRI, ASSAM
PIN NO. 783348

VERSUS

THE STATE OF ASSAM
THE PP OF ASSAM WILL REPRESENT THE CASE ON BEHALF OF THE
STATE.

Advocate for the Petitioner : MR. N M SARKAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 04-01-2023

Heard Mr. N.M. Sarkar, learned counsel for the petitioner and Mr. M.P. Goswami, 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. Moynal Hoque has approached this Court seeking the benefit of pre-arrest bail, apprehending his arrest, in connection with Bilasipara Police Station Case no. 318/2022, registered for the offences under Sections 498A/326/307/34, Indian Penal Code [IPC].

3. The FIR was lodged by the uncle of the alleged victim wherein he had arraigned 4 [four] persons as accused with the present petitioner as accused no. 1[A-1]. As per the FIR, the marriage between the petitioner and the alleged victim was solemnized 4 [four] years earlier. Since the time of marriage, the petitioner had allegedly demanded dowry. The informant referred to an incident dated 28.09.2022 to allege that on that day, the victim was assaulted by the petitioner and as a result, she sustained injuries which were to be treated at Bongaigaon Lower Assam Hospital.

4. Mr. Goswami, learned Additional Public Prosecutor has received the case diary. As per the injury report available in the case diary, the injury sustained by the victim was simple and was caused by blunt object. He has further submitted the injury was on the head and the nature of injury was cut injury. From the statements of the witnesses, it has emerged that the assault was preceded by heated arguments between the petitioner and the victim.

5. Having considered the nature of injury sustained by the victim and the progress made in the investigation of the case so far, this Court is of the view that the benefit of pre-arrest bail can be extended to the petitioner subject to stringent conditions. I am of the considered view that custodial interrogation of the petitioner is not necessary for the purpose of carrying out further investigation into the case and his release on pre-arrest bail, at this stage of investigation, is not likely to bring any adverse effect in the course of further investigation, provided he extends his assistance and co-operation in the further investigation of the case by joining the investigation.

6. Accordingly, it is provided that in the event of arrest of the petitioner viz. Moynal Hoque in connection with Bilasipara Police Station Case no. 318/2022, he shall be released on bail on furnishing a bail bond of ₹ 50,000/- with two local sureties of the like amount, to the satisfaction of the arresting authority, subject to the conditions that :

[i] the petitioner shall appear before the Investigating Officer [I.O.] of the case within 7 [seven] days from today and also thereafter, appear before the I.O. of the case once

in every 2 [two] weeks for the next 2 [two] months and as and when his presence is called for;

[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; and

[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.

7. The application stands disposed of in the aforesaid terms.

JUDGE

Comparing Assistant