

GAHC010249382023



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

Case No. : AB/3731/2023

NAGEN GOGOI
S/O- LATE RUPEN GOGOI, VILLAGE- NAMRUPIA GAON, P.S. MARIANI, PIN-
785634, DIST.- JORHAT, ASSAM

VERSUS

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

Advocate for the Petitioner : MR. ABU JAHID

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 20.11.2023

Heard Mr. Abu Jahid, learned counsel for the petitioner. Also heard Ms. S. Jahan, learned Additional Public Prosecutor for the State respondent as well as Mr. A. H. Mazumdar, learned counsel for the informant.

This application has been preferred under Section 438 of Code of Criminal Procedure, 1973, by the petitioner, namely, Nagen Gogoi, who is apprehending his arrest in connection with Mariani P. S. Case No. 107/2023 registered under Sections 306 of IPC.

The gist of the accusation in this case is that on 26.10.2023, one Sri Nelson Tuti had lodged an FIR before the Officer-in-Charge Mariani Police Station, *inter-alia*, alleging that the daughter of the first informant who was the student of class 8 of Mariani Jungle Block High School committed suicide by hanging on 24.10.2023, as she was suffering from severe mental pressure due to some incident which occurred in her school in the month of August, 2023. It is alleged in the FIR that who is the teacher in the said school used to make bad comments and used to touch the body of the student and to create an uncomfortable environment in school.

It is further alleged in the FIR that on 29.08.2023, the petitioner compelled the victim to remove her shirt in the class room in front of other students and it is alleged in the FIR that thereafter the first informant lodged a complaint before the head master of the school however, head master called the first informant to his room and told that nothing obscene has happened and it was only a joke.

It is further alleged in the FIR that thereafter, the daughter of the first informant suffered from mental agony and as result of which on 24.10.2023 she committed suicide.

Learned counsel for the petitioner has submitted that the petitioner is a school teacher and is not involved in any manner in abetting or instigating or commission of suicide of daughter of the first informant.

It is further submitted by learned counsel for the petitioner that the allegations levelled against the present petitioner in the FIR are false and fabricated and is result of afterthought.

It is also submitted by the learned counsel for the petitioner that the petitioner is ready to co-operate with the Investigating Officer under any condition which may be imposed by this Court.

On the other hand, learned counsel for the informant vehemently opposed the grant of anticipatory bail to the present petitioner on the ground that the allegations made against the present petitioner are very serious in nature and he cannot be allowed to go scot free after committing such a heinous offence as alleged in the FIR.

It is further submitted by the learned counsel for the informant that the school authorities may not be assisting in the fair investigation of the case when the petitioner complaint about the incident to the principle of the school, he did not take it seriously and brushed the incident which occurred in the class room as a joke.

On the other hand, learned Additional Public Prosecutor has procured the case diary of Mariani P. S. Case No. 107/2023 and has submitted that the Investigating Officer as in the meanwhile recorded the statement of many witnesses including the students who were alleged to be present on the date of incident, however, none of the student has implicated the present petitioner in the offence involved in this case. Though the informant in his statement has implicated the present petitioner.

It appears from record that the incident of suicide by the victim occurred on 24.10.2023, whereas the incident alleged against the present petitioner in the class room had occurred on 29.08.2023, i.e., almost two months prior to the

date of commission of suicide by the alleged victim. Be that as it may, considering the fact that the Investigating Officer has recorded the statements of the relevant witnesses, custodial detention of the present petitioner does not appear to be necessary for the sake of completion of the fair investigation, if he co-operates in the investigation.

In view of the above, the petitioner, namely, Nagen Gogoi, is hereby directed to appear before the Investigating Officer of Mariani P. S. Case No. 107/2023 within a period of 10 days from the date of this order and co-operate with the Investigating Officer in fair completion of investigation and if he does so within the said period, in the event of his arrest in connection with Mariani P. S. Case No. 107/2023, he shall be allowed to go on bail of Rs. 30,000/- (Rupees Thirty Thousand only), with one surety of like amount to the satisfaction of the arresting authority with the following conditions:

- i. That the petitioner shall appear before the Investigating Officer once in every week for next four weeks or till the investigation is complete, whichever is earlier.
- ii. That the petitioner shall not directly or indirectly make any inducement, threat or promise to the family members of the deceased or to any person who may be acquainted with the facts of the case, so as to dissuade such person from disclosing such facts of the case before the Investigating Officer.
- iii. That 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