

GAHC010252522023



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

**Case No. : AB/3780/2023**

ABDUL HAMID  
S/O ABDUL MALEQUE  
R/O VILL- GUNIALGURI  
P.O. GUNIALGURI  
P.S. KALGACHIA  
DIST. BARPETA, ASSAM  
PIN-781319

VERSUS

THE STATE OF ASSAM  
REP. BY THE PP, ASSAM

**Advocate for the Petitioner : MD. S ALOM**

**Advocate for the Respondent : PP, ASSAM**

**BEFORE**  
**HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

**ORDER**

**28.11.2023**

Heard Md. S. Alom, learned counsel for the petitioner. Also heard Ms. S.H. Jahan, learned Additional Public Prosecutor, Assam.

This application under Section 438 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, Abdul Hamid, who is apprehending his arrest in connection with Kalgachia P.S. Case No. 157/2023 under Section 417/376/341/323/506/34 of the Indian Penal Code.

The gist of accusation in this case is that on 01.11.2023, the victim/informant of this case had lodged an FIR, naming seven numbers of accused persons in the FIR, including the petitioner, *inter-alia*, alleging that the petitioner and the victim were in a romantic relationship and were having love affair since 2017 and it is also alleged that though the present petitioner wants to marry the first informant, however, other accused persons named in the FIR, who are the family members of the present petitioner are opposed to any such relationship and they do not agree the continuation of relationship between the first informant and the present petitioner.

It is also alleged in the FIR that on 26.10.2023, that the present petitioner had asked the informant to come out of her home along with some money and thereafter, she accompanied the present petitioner and stayed with him in a room for a night where they had physical relationship.

Thereafter, it is also alleged that the informant accompanied the present petitioner to his house along with him. However, the other accused persons named in the FIR, that is the family members of the present petitioner restrained the informant and assaulted her causing injury over her person.

Learned counsel for the petitioner has submitted that the victim as well as the petitioner, both are major and were having love affair since last six years.

It is further submitted that the petitioner is ready to marry the informant and it is only his family members who are opposed to such a relationship.

Further, it is submitted by learned counsel for the petitioner that bare

reading of the FIR would reveal that the relationship between the first informant and the present petitioner is consensual in nature.

Learned counsel for the petitioner has also submitted that the other co-accused persons are already enlarged on bail by this Court.

On the other hand, learned Additional Public Prosecutor has produced the case diary of Kalgachia P.S. Case No. 157/2023 and has submitted that from the materials available in the case diary, it appears that the petitioner and the victim were having a love affairs since long and the victim herself accompanied the petitioner on the date of alleged offence and both are major.

Considering the submissions made by the learned counsel for both the parties as well as materials available on record, including the case diary of Kalgachia P.S. Case No. 157/2023 as well as considering the fact that the other co-accused persons are already on bail, perusal of FIR *prima facie* indicates that relationship between the petitioner and the victim was of consensual nature, the petitioner, namely, Abdul Hamid is hereby directed to appear before the Investigating Officer of Kalgachia P.S. Case No. 157/2023 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 Kalgachia P.S. Case No. 157/2023, 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**