

GAHC010256472022



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

Case No. : AB/3685/2022

ROHEL AHMED
S/O LATE A BDUL KARIM
P.O. UDALI, P.S. LANKA
DIST. HOJAI, ASSAM, PIN-782446
MOBILE NO. 97072-98848

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : SIRAJ CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 03-01-2023

Heard Mr. P. Das, 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. Rohel Ahmed has approached this Court seeking the benefit of pre-arrest bail, apprehending his arrest, in connection with Lanka Police Station Case no. 427/2022, registered for offences punishable under Sections 498A/448/325/326/307/34, Indian Penal Code [IPC].

3. The informant in the First Information Report [FIR], lodged on 11.10.2022, has brought allegations against four accused persons named therein regarding physical assault on her. As per the FIR, the informant was driven out of her matrimonial house about 1½ months earlier. Subsequently by visiting the paternal house of the informant where the informant is taking shelter, the accused persons made physical assault on her on two dates.

4. Learned counsel for the petitioner has submitted that the petitioner is the brother-in-law of the informant and there was no such attempt from the end of the petitioner to assault the informant.

5. Mr. Goswami, learned Additional Public Prosecutor who has received the case diary, has submitted that it is true that the informant was driven out of her matrimonial house. The materials in the case diary go to suggest that after being driven out of her matrimonial house, the informant was taking shelter in her paternal house. The materials also go to indicate that there was an effort from the end of the husband of the informant to reconcile and in the process, he along with the petitioner herein had gone to the paternal house of the informant where she was taking shelter. In the process of persuading the informant, there was heated exchange of words and a scuffle ensued. The injury report available in the case diary go to indicate that the informant sustained a simple injury and the same were reportedly caused by hand.

6. The petitioner was granted interim protection by an order dated

14.12.2022 with a further direction to him to appear before the Investigating Officer of the case within 7 [seven] days from 14.12.2022. Mr. Das, learned counsel for the petitioner has submitted that in deference to the order dated 14.12.2022, the petitioner has appeared before the Investigating Officer of the case. Mr. Goswami, Additional Public Prosecutor has also submitted that the petitioner has, in the meantime, appeared before the Investigating Officer of the case and his statement recorded under Section 161, CrPC is available in the case diary.

7. Having regard to the nature of allegations made in the FIR; the nature of injury sustained by the informant; and the fact that the petitioner has already joined the investigation by appearing before the Investigating Officer of the case, this Court is of the considered view that custodial interrogation of the petitioner for the purpose of carrying out further investigation of the case is not necessary and his release on pre-arrest bail, at this stage of investigation, is not likely to bring any adverse effect in the further investigation of the case, provided the petitioner continues to extend his assistance and co-operation in the further investigation of the case. Accordingly, the interim protection granted to the petitioner by order dated 14.12.2022, is made absolute, subject to the condition nos. [1], [2] & [3], set forth already in the said order dated 14.12.2022.

8. The bail application stands disposed of in the aforesaid terms.

JUDGE

Comparing Assistant