

GAHC010259042023



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

Case No. : AB/3900/2023

RAFIKUL ISLAM @ ROFIQUL
S/O ABDUL KADER ALI
VILL- LEWABARI FUTURIPARA
P.O. DUBAPARA
P.S. MORNOI
DIST. GOALPARA, ASSAM
PIN-783101

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M R KHANDAKAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 21.11.2023

Heard Mr. M. R. Khandakar, learned counsel for the petitioner. Also heard Ms. S. Jahan, learned Additional Public Prosecutor for the State.

This application under Section 438 of the Code of Criminal Procedure,

1973 has been filed by the petitioner, namely, *Rafikul Islam @ Rofiqul* who is apprehending his arrest in connection with Goalpara P.S. Case No. 407/2021 under Sections 366/379/34 of the Indian Penal Code.

The gist of accusation in this case is that on 06.07.2021, one Anowar Ali had lodged an FIR before the Officer-In-Charge of Goalpara Police Station, *inter alia*, alleging that on 05.07.2021, the wife of the first informant fled away along with the present petitioner with seven months old child and the wife of the first informant also took golden ornaments of about Rs.1,50,000/- value and other materials along with her.

Learned counsel for the petitioner has submitted that the victim i.e., the wife of the first informant is an adult woman of 23 years old and from the bare perusal of the FIR, it would reveal that the first informant's wife eloped with the present petitioner on her own. It is further submitted by learned counsel for the petitioner that, thereafter, the wife of the first informant (victim) had divorced the first informant and after executing a deed of declaration of marriage is living with the present petitioner on her own.

The learned counsel for the petitioner has submitted that the petitioner is now apprehending his arrest in connection with this case as the victim has returned back to her husband and is now staying with the informant and the Police is searching for the present petitioner.

Considering the fact that the FIR was lodged about more than two years ago i.e., 06.07.2021 and also considering the fact that the bare perusal of the FIR would reveal that it was the victim who herself eloped with the present petitioner and also considering the fact that the victim was an adult woman on the date when the alleged offence was committed, further considering the

submissions made by learned counsel for the petitioner that the petitioner is ready to cooperate with the Investigating Officer, this Court is of considered opinion that custodial detention of the present petitioner may not be necessary for fair completion of the investigation of the Goalpara P.S. Case No. 407/2021. Hence, the petitioner, namely, *Rafikul Islam @ Rofiqul* is hereby directed to appear before the Investigating Officer of Goalpara P.S. Case No. 407/2021 within a period of ten days from the date of this order and cooperate in the investigation. If he does so, within the stipulated period of time, in the event of his arrest in connection with Goalpara P.S. Case No. 407/2021, the above named petitioner shall be allowed to go on bail of Rs.30,000/- (Rupees Thirty Thousand) with one surety of like amount to the satisfaction of arresting authority with a condition that the petitioner shall cooperate with the Investigating Officer in the investigation.

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

JUDGE

Comparing Assistant