

GAHC010261142023



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

Case No. : AB/3972/2023

BOJRUL HUDA
S/O AJGOR ALI
R/O VILL- BANGALIPARA PART-I
P.O. BANGALIPARA
P.S. DHUBRI, ASSAM
PIN-783348

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. K C ROY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 08-12-2023

Heard Mr. K.C. Roy, learned counsel for the petitioner. Also heard Ms. S. Jahan, learned Additional Public Prosecutor, Assam as well as Mr. M.J. Baruah, learned counsel appearing for the informant.

This is an application under Section 438 CrPC filed by the petitioners, namely, Bojrul Huda, praying for pre-arrest bail in connection with Bilasipara P.S. Case No. 391/2022, under Sections 143/325/326/302 IPC.

Learned Additional Public Prosecutor has produced the Case Diary.

Learned counsel for the petitioner has submitted that the incident occurred on 30.12.2022, which was a Friday, after the end of Jumma Namaj at the premises of Bangalipara Masjid, Bilasipara and the petitioner was nowhere connected with the alleged offence as he was not present there on the day of the incident. He further submits that the name of the petitioner is also not mentioned in the FIR and, therefore, the benefit of pre-arrest bail may be granted to the petitioner.

I have perused the Case Diary and the materials available on record.

Learned Additional Public Prosecutor has submitted that as per the report of the Investigating Officer the video footage taken from the place of the incident was not clear and thus it could not be ascertained whether the present petitioner was present there at the time of the incident or not. However, the witnesses stated that the petitioner was present when the incident took place.

Learned counsel for the informant has submitted that after the incident had taken place, investigation was not carried out by the police personnel. However, on consideration of the direction of the higher authority the investigation was started lately as a result of which the names of some persons, who were involved in the incident, were missing from the FIR. The name of the present petitioner is not mentioned in the FIR for the aforesaid reason.

Having considered the submissions of the learned counsel for the parties and on perusal of the Case Diary, this Court is of the view that custodial interrogation of the petitioner is not required at this state of investigation.

Accordingly, the petitioner is granted pre-arrest bail in connection with Bilasipara

P.S. Case No. 391/2022 on furnishing of bail bond of Rs. 10,000/- with one suitable surety of the like amount to the satisfaction of the arresting authority.

This direction for pre-arrest bail is further subject to the conditions that the petitioners:

- (a) shall appear before the Investigating Officer within 10 (ten) days from today for recording his statements;
- (b) shall not hamper with the investigation, or temper with the evidence of the case;
- (c) shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer.

In terms of the above, this Interlocutory Bail Application stands disposed of.

Send back the Case Diary.

JUDGE

Comparing Assistant